S. HRG. 99-844

SIOUX NATION BLACK HILLS ACT

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 1453

TO REAFFIRM THE BOUNDARIES OF THE GREAT SIOUX RESERVATION TO CONVEY FEDERALLY HELD LANDS IN THE BLACK HILLS TO THE SIOUX NATION; TO PROVIDE FOR THE ECONOMIC DEVELOPMENT, RESOURCE PROTECTION, AND SELF-DETERMINATION OF THE SIOUX NATION; TO REMOVE BARRIERS TO THE FREE EXERCISE OF TRADITIONAL INDIAN RELIGION IN THE BLACK HILLS; TO PRESERVE THE SACRED BLACK HILLS FROM DESECRATION; TO ESTABLISH A WILDLIFE SANCTUARY; AND FOR OTHER PURPOSES

JULY 16, 1986
WASHINGTON, DC

S411-22

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SIOUX NATION BLACK HILLS ACT

WEDNESDAY, JULY 16, 1986

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:10 a.m., in room 628, Dirksen Senate Office Building, Hon. Mark Andrews (chairman of the committee) presiding.

Present: Senators Andrews, Gorton, Abdnor, Inouye, and Burdick.

Staff present: Pete Taylor, John Vance, Virginia Boylan, and Richard Doubrava.

STATEMENT OF HON. MARK ANDREWS, U.S. SENATOR FROM NORTH DAKOTA, AND CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee will come to order.

We are gathered here this morning to consider and hear testimony about S. 1453, a bill introduced by our colleague, Senator Bradley, which, if passed, will return 1.3 million acres in South Dakota to the Sioux Nation.

[The text of S. 1453 follows:]

II

99TH CONGRESS
1ST SESSION

S. 1453

To reaffirm the boundaries of the Great Sioux Reservation to convey federally held lands in the Black Hills to the Sioux Nation; to provide for the economic development, resource protection and self-determination of the Sioux Nation; to remove barriers to the free exercise of traditional Indian religion in the Black Hills; to preserve the sacred Black Hills from desecration; to establish a wildlife sanctuary; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 17 (legislative day, JULY 16), 1985

Mr. BRADLEY introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

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A BILL

To reaffirm the boundaries of the Great Sioux Reservation to convey federally held lands in the Black Hills to the Sioux Nation; to provide for the economic development, resource protection and self-determination of the Sioux Nation; to remove barriers to the free exercise of traditional Indian religion in the Black Hills; to preserve the sacred Black Hills from desecration; to establish a wildlife sanctuary; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sioux Nation Black Hills Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Black Hills are the sacred center of aboriginal territory of the Sioux Nation and as such hold deep religious significance for the Sioux Nation, and

(2) such lands are Sioux treaty territory, as affirmed by the Treaties of September 15, 1851 (11 Stat. 749) and April 29, 1868 (15 Stat. 635);

(3) the Sioux Nation views the Black Hills as inalienable and have never voluntarily surrendered or ceded the Black Hills, and have resolved not to accept money in exchange for extinguishment of title to such lands or of the right to practice traditional religion in the Black Hills area;

(4) the United States Supreme Court affirmed the findings of the Court of Claims, citing its conclusion that "[a] more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history" and further noting the Court of Claims' language regarding the duplicity of President Grant "in breaching the Government's treaty obligations to keep trespassers out of the Black Hills, and the pattern of duress practiced by the Government on the starving Sioux to get them to agree to the sale of the Black Hills";

(5) the Sioux Nation has never been accorded a forum within which to seek the return of the lands and, while the United States Supreme Court upheld the ruling of the Court of Claims that the Act of February 28, 1877 (19 Stat. 254), was unconstitutional for failure to pay "just compensation", the constitutionality of the Black Hills taking has not been fully adjudicated because Congress has not provided a Court with the jurisdiction to provide for the return of land as a remedy for an "unconstitutional taking", nor has the question of whether the Black Hills taking was for a "public purpose" had a forum within which to be addressed;

(6) the lawsuit brought by the Oglala Band of the Sioux Nation against the United States to quiet title to Federal lands in the Black Hills, and for damages, was dismissed for want of jurisdiction, Oglala Sioux Tribe of the Pine Ridge Indian Reservation v. United States, 650 F.2d 140 (8th Cir. 1981), cert. denied, 455 U.S. 907;

(7) other bands of the Sioux Nation sued the United States in the Indian Claims Commission, under the Act of March 13, 1978 (92 Stat. 153), and obtained a judgment of $17.1 million for the value of the land taken by the Act of February 28, 1877 (19 Stat.

254), $3,484 for rights of way, $450,000 for damages resulting from gold removed prior to the Act, plus 5 percent simple interest but not on the value of the gold, totaling $105,994,430.52 which was appropriated on July 18, 1980;

(8) neither the Act of March 13, 1978 (92 Stat. 153) nor such judgment provide for the return of land in the Black Hills;

(9) the Sioux Nation has resolved to reject the monetary award and will not accept money in exchange for extinguishment of title to such lands;

(10) the Black Hills have deep religious significance to the Sioux people and the Sioux people refuse to also accept monetary compensation in exchange for the First Amendment rights to freely practice their religion in the Black Hills;

(11) the different bands of the Sioux Nation have pressed its claim to the Black Hills vigorously and continuously for more than 100 years;

(12) notwithstanding the value of $17.1 million established by the Court of Claims as the value of the Black Hills at the time of taking, the loss to the Sioux must be measured in terms of the adjusted value of the resources extracted from the Black Hills which exceeds

$18 billion for the 36 million ounces of gold extracted by the Homestake Mine alone through 1980;

(13) the executive branch of the United States has established a record of negotiation with the Sioux Nation to effect a resolution of the Sioux Nation's consistent efforts to recover land in the Black Hills;

(14) the Congress has in the recent past resolved complex American Indian land title and religious issues by conveying title, as well as other forms of compensation, without restricting such resolution to monetary damages; and

(15) it will further the interests of the United States to enter into a just and honorable Sioux Nation Black Hills lands settlement, recognizing and reaffirming its domestic and international commitments to Sioux Nation self-determination, economic security, religious freedom, and acknowledging the traditional and historical belief of the Sioux in the sacred character of the Earth and in the Black Hills in particular, as well as their rights to freely exercise such beliefs.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Federal lands" means lands held in fee simple by the United States that are not held in trust or for the benefit of any other. Such term in-

cludes National Forest, National Parks, Bureau of Land Management, and other lands administered by the Department of Agriculture and the Department of the Interior.

(2) The term "lands", whether Federal or private, includes water rights appurtenant to land, as well as sub-surface mineral rights, mineral patents, and mining claims.

(3) The term "private lands" means lands held in fee simple by the State of South Dakota, its political subdivisions and municipalities, or by any person other than the United States and its instrumentalities.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Sioux" or "Sioux Nation" means those sovereign and independent bands of the Sioux Nation who separately entered into the multilateral Treaty of April 29, 1868 (15 Stat. 635) with their chiefs and headmen acting as ministers, and shall further mean the Lakota, Dakota, and Nakota bands who were members of the alliance referred to as the Seven Council Fires.

(6) The term "Tribes" means the federally recognized or organized tribes who are successors in interest to the sovereign bands of the Great Sioux Nation, to

wit: Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Lower Brule Sioux Tribe, Oglala Sioux Tribe, Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Santee Sioux Tribe of Nebraska, and Sioux Tribe of the Fort Peck Reservation.

(7) The term "sub-surface mineral estates" means the sub-surface mineral rights retained by the United States on those lands in which surface rights have been conveyed to private parties by United States patent.

(8) The term "re-established area" means the land declared to be a reservation for the Sioux Nation under section 3.

(9) The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

SEC. 4. RE-ESTABLISHED AREA.

Except to the extent otherwise provided in this Act the land within the following described boundaries which was a portion of the Great Sioux Reservation bounded and confirmed by the Treaty of April 29, 1868 (15 Stat. 635), and which was subsequently excluded from such reservation by the Act of February 28, 1877, is hereby declared to be a reservation for the Sioux Nation:

> The western boundary of the land commences at the intersection of the one hundred and fourth degree of longitude west from Greenwich with the northern boundary of the State of Nebraska, thence north on same meridian to a point where the forty-sixth parallel of north latitude intercepts the same; thence due east along said parallel to a point where the one hundred and third degree of longitude west from Greenwich intercepts the same; thence due south on said meridian to its intersection with the North Fork of the Cheyenne River; thence down said stream to its junction with the South Fork of said Cheyenne River; thence up the South Fork of said Cheyenne River to the said one hundred and third meridian; thence south along said meridian to its intersection with the northern boundary of the State of Nebraska; thence west on such northern boundary of the State of Nebraska to the place of beginning.

SEC. 5. RE-CONVEYANCE OF LANDS.

(a)(1) The Secretary of the Interior shall identify and inventory—

(A) all private lands within the re-established area,

(B) any Federal lands within the re-established area that are in current use by the United States for military purposes, courthouses, office buildings, post offices, hospitals, warehouses, or cemetaries,

(C) all other Federal lands within the re-established area,

(D) all Federal sub-surface mineral estates within the re-establishment area,

(E) all Federal reserved water rights, and water rights acquired by the Federal Government under South Dakota State law, that are appurtenant to lands within the re-established area, and

(F) all valid rights, reservations, easements, leases, permits, agreements, contracts (including water supply contracts), and memoranda of understanding affecting the lands and water rights described in subparagraphs (D) and (E). The inventory of federally owned water rights shall indicate the location, amount, and priority date of all such rights.

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register the inventory compiled under paragraph (1).

(3) During the 60-day period beginning on the date on which the inventory is published under paragraph (2), the Secretary shall accept comments on such inventory from the Sioux Nation and any other interested party. The Secretary shall investigate any allegation of error or omission in such inventory.

(4) By no later than the date that is 150 days after the date on which the inventory is published under paragraph (2), the Secretary shall publish any changes in the initial inventory which are necessary to correct errors and omissions or a revised inventory which is free of errors or omissions.

(b)(1) Except to the extent otherwise provided in this Act, the head of each Federal agency having jurisdiction over any Federal land within the re-established area, any water rights appurtenant to such Federal land, or any sub-surface mineral estate within the re-established area shall, by no later than the day that is 210 days after the date on which the inventory is published under subsection (a)(2), convey all of such Federal lands, mineral estates, and water rights to the Sioux Nation in fee simple, without warranties of any kind.

(2) In any conveyance made under paragraph (1), the head of the Federal agency may reserve to the United States an easement which allows the United States to use any land which is identified under subsection (a)(1)(B) for any purpose described in subsection (a)(1)(B) for so long as such use is continuous from the date of such conveyance.

(3) No conveyance made under paragraph (1) shall affect any rights, reservations, easements, leases, permits, agreements, and contracts that exist under the public land laws on the day before such conveyance so long as they remain valid in accordance with the terms of such public land laws.

(4)(A) The Mount Rushmore National Memorial shall not be conveyed under paragraph (1).

(B) The Sioux Nation shall be given first preference in bidding for the operation of the concessions at the Mount Rushmore National Memorial.

SEC. 6. WATER RIGHTS.

(a) All waters—

(1) which are—

(A) within,

(B) flowing through, or

(C) arising on,

the re-established area,

(2) to which there is no valid, outstanding appropriation under South Dakota State law,

(3) which would be deemed abandoned pursuant to South Dakota law, on the day before the date of enactment of this Act, and

(4) which are not reserved by the United States under section 4(b)(2),

shall, on the date that is 210 days after the date on which the inventory is published under section 4(a)(2), become the property of the Sioux Nation and the Sioux Nation shall determine the use and allocation of such waters.

(b) Any water rights transferred to the Sioux Nation under section 4(b)(1)—

(1) shall retain the same quantity and date of priority that such rights would have if the Federal Government continued to own such rights,

(2) shall not be limited to the uses for which they were reserved by the Federal Government, and

(3) may be used or allocated to any purpose within or without the boundaries of the re-established area as the Sioux Nation may choose.

(c) All water rights (other than water rights acquired from the Federal Government) which may be transferred to or acquired by the Sioux Nation pursuant to this Act—

(1) shall be in the same quantities and with the same dates of priority as such rights would have if such private party continued to own such rights,

(2) shall not be subject to abandonment pursuant to South Dakota State law,

(3) shall be treated as permanent present perfected rights under Federal law, and

(4) shall be subject to such use and allocation as the Sioux Nation may determine.

(d) All waters within, flowing through, or arising on the re-established area shall be subject to the sole and exclusive jurisdiction of the Sioux Nation to regulate the use and allocation of such waters.

SEC. 7. EXEMPTION FROM TAXATION AND CONDEMNATION.

All lands within the re-established area shall be exempt from taxation by the United States or any State or subdivision of a State, and from acquisition for public purposes without the consent of the Sioux Nation.

SEC. 8. STATUS OF PRIVATE LANDS.

(a) Privately held lands within the re-established area shall not be disturbed, and may be held and used or occupied for the same purposes as prior to this Act, subject however, to Sections 10, 11, 12, 13, and 14 of this Act; provided however, that the Sioux Nation may purchase such lands and may also receive title to such lands by devise, gift, exchange, or other transfer. Any private lands purchased or otherwise acquired by the Sioux Nation within the re-established area shall be held and used by the Sioux Nation in the same manner and status as federal lands conveyed under section 5(b).

(b) The Sioux Nation shall have a right of first refusal to purchase privately held lands within the area described in section 11 (b) and (c).

SEC. 9. EXCHANGE OF LANDS.

(a) For the purpose of consolidating the land holdings of the Sioux Nation within the re-established area, the Secretaries are hereby authorized and directed to acquire, by purchase or exchange, all state school lands held by any State within the re-established area, and all interests therein, including improvements, mineral rights whether or not they have been separated from the surface estate, and water rights.

(b) The Secretaries shall immediately and diligently undertake to acquire, by exchange, those lands held by the State of South Dakota at Bear Butte.

(c) In exercising the authority to acquire the above described lands by exchange, the Secretaries are authorized to utilize unappropriated public domain lands outside of the reestablished area, but within the respective affected states. The property so exchanged shall be of approximately equal value, except the Secretaries may pay cash to the affected state to equalize the values of the properties exchanged.

(d) Any lands so acquired by exchange shall be immediately conveyed to the Sioux Nation to be held in the same manner and status of federal lands conveyed under section 5(b) of this Act.

SEC. 10. COMPENSATION.

(a) Funds appropriated on July 18, 1980, in accordance with the Act of March 13, 1978 (92 Stat. 153), and the interest earned from such funds through the date of enactment of this Act shall be paid to the Sioux Nation in compensation for the loss of the use of its lands from 1877 to the effective date of this Act and not for extinguishment of title of such lands. These monies shall be managed by the Sioux Nation such that 100 percent of such funds shall be invested in permanent interest bearing account or accounts at financial institutions of the Sioux Nation's choice for the benefit of the Sioux

Nation and future generations of its people. The permanent trust account or accounts shall be held and maintained in perpetuity by the Sioux Nation and shall never be liquidated. Interest deriving from the investment of such funds shall be distributed annually with 10 percent of such interest paid to the Sioux National Council to be used for governmental and public purposes and the remainder shall be paid out to the different tribes based on those percentages of ownership established by the Secretary of the Interior in the "Results of Research Report in Docket 74B" (Black Hills Claim).

(b) To further compensate the Sioux Nation for the loss of the use of its lands, and for the conveyance of some lands to private persons, the United States shall convey to the Sioux Nation, by Quit Claim deed in the same manner and status as federal lands conveyed under section 5(b), an additional fifty thousand acres of federal lands plus an additional fifty thousand of federal sub-surface mineral estates lying outside the 1877 taking area of the Great Sioux Reservation but within the area described in Articles 11 and 16 of the Treaty of April 29, 1868 (15 Stat. 635). The Sioux Nation shall select these lands and identify them to the Secretaries within five years of the effective date of this Act.

(c) Subsection (b) may include National Forests, National Parks, and National Monuments, but shall exclude military facilities, court houses, office buildings, post offices, warehouses, cemeteries, and state highways.

(d) To further compensate the Sioux Nation and in order to insure that the Sioux Park and the Black Hills Sioux Forest remain accessible to the general public, the United States shall provide an annually appropriated budget to the Sioux Nation for the operation and maintenance for such lands which shall not be less than 5 percent of the amount of funds that were available to the Secretaries for the lands that comprise the Sioux Park and the Black Hills Sioux Forest for the fiscal year in which this Act is enacted.

SEC. 11. SIOUX PARK.

(a) All lands in the re-established area except as provided in section 6 which were held under the jurisdiction of the United States Park Service prior to the promulgation of this Act and such other lands in the re-established area as are identified by agreement of the Secretaries and the Sioux Nation within five years of the effective date of this Act, and their legal description published in the Federal Register shall thereafter be known as the Sioux Park, and shall remain equally accessible to all persons, both Sioux and non-Sioux, under such rules and regulations as the Sioux may from time to time establish and publish.

(b) Notwithstanding the foregoing, such lands within the Sioux Park which are traditional religious or ceremonial sites shall be identified by the Sioux and shall be excluded from public access to the extent necessary to preserve their primary religious uses and integrity. Such sites, which have their individual names, shall be designated by the generic name "Tatanka TaCante"/"The Heart of the Buffalo".

(c) Notwithstanding the foregoing, any lands within the Sioux Park that are designated by the Sioux as a wildlife and wilderness sanctuary for living things which have a special sacred relationship to the Sioux may be excluded from public access to the extent necessary to provide such sanctuary. Such sanctuaries shall be designated by their traditional names and shall be designated by the generic name "Wamaka Og'naka Onakizin"/"The Sanctuary of Everything That Is".

(d) Religious sites and ceremonial sites outside of the reestablished area acquired under sections 8, 9, 10(b), 11, or 12, including Devil's Tower, and the Inyan Kara Mountain area, shall be included in the Sioux Park.

(e) Notwithstanding the foregoing, such lands that were held under the jurisdiction of the Forest Servce Prior to Promulgation of this Act and were designated as the Norbeck Wildlife Preserve, the Black Elk Wilderness Area, the Pine Creek Natural Area, and other such restricted use lands shall become a part of the Sioux Park.

(f) All lands in the Sioux Park shall remain in the state of use or development to which these lands were committed on the effective date of this Act.

(g) For a transition of five years, the National Park Service and the Sioux Nation will jointly manage the Sioux Park subject to such rules and regulations as the Sioux Nation may from time to time establish and subject to a Management Agreement to be negotiated between the National Park Service and the Sioux Nation.

(h) Notwithstanding any other law, the Sioux Nation shall qualify as an Indian tribe for purposes of the provisions of Section 105 of the Act of January 4, 1975, (88 Stat. 2209).

SEC. 12. BLACK HILLS SIOUX FOREST.

(a) Lands acquired by the Sioux Nation under this Act which are not included in the Sioux National Park and were under the jurisdiction of the United States Forest Service prior to the effective date of this Act shall be designated as the Black Hills Sioux Forest. Such lands may be used by the Sioux Nation in accordance with the traditional principle of "respect for the earth" except that for a transition period of five years the Forest Service and the Sioux Nation will jointly manage the Black Hills Sioux Forest subject to such rules and regulations as the Sioux Nation may from time to time establish and subject to a Management Agreement to be negotiated between the Forest Service and the Sioux Nation. Any authorizations or regulations for land use within the area designated as the Black Hills Sioux Forest which are in conflict with the principle of "respect for the earth" shall be identified within one year of the effective date of this Act by the Sioux Nation and notice of withdrawal of such authorizations and regulations shall be published for a period of thirty days, after which any such use shall cease, except for those uses as provided in section 5(b)(3), i.e., "all existing valid rights, reservations, easements, leases, permits, agreements, and contracts under the public law shall continue in full force and effect so long as they remain valid in accordance with the terms thereof".

(b) Notwithstanding any other law, the Sioux Nation shall qualify as an Indian tribe for purposes of the provisions of section 105 of the Act of January 4, 1975, (88 Stat. 2209).

(c) Rents, royalties, fees, and any income realized from the use of lands in the Black Hills Sioux Forest, including taxes, shall be applied exclusively to the administration, governance, up-keep and improvement of the Forest and Park and the welfare of its residents and users, and shall include the administration of the Sioux Nation Council and its governmental functions. Notwithstanding the above, any income above the funds necessary for the administration and governance of the re-established area shall be equitably distributed among the different tribes of the Sioux Nation through their respective governments and such revenue shall be spent solely for public purposes, such as public administration and the health, education and general welfare of their members.

(d) Lands acquired by the Sioux Nation under this Act which were held by the Bureau of Land Management, or were designated as National Grasslands and were managed by the Forest Service, shall be treated in the same manner as described above in section 12(a), (b), and (c).

SEC. 13. THE SIOUX NATIONAL COUNCIL

(a) For the purpose of managing and governing the re-established area, there is hereby recognized and acknowledged a Sioux National Council ("National Council"). The National Council shall be composed of such members, selected in such manner and shall exercise such powers of governance and land management as may be delegated to it in a constitution approved by at least three-quarters of the adult members of the respective tribes of the Sioux Nation. The constitution shall be presented to the members for approval within three years of the enactment of this Act. The constitution of the National Council shall absolutely prohibit the sale or disposal of any lands or water rights acquired under this Act and such lands shall not be sold or disposed of except in accordance with Article 12 of the Treaty of April 29, 1868.

(b) There is hereby recognized and acknowledged such court or courts as the Constitution of the National Council may provide, which shall have original and exclusive jurisdiction to review the lawfulness of actions taken by the National Council.

SEC. 14. INTERIM MANAGEMENT BOARD

For the purpose of managing and governing the re-established area until such time as the National Council is selected in accordance with the provisions of such Constitution, as set forth in section 13(a), each Tribe shall appoint two representatives to an Interim Management Board, one of which shall be appointed by the respective tribal government, the second of which may be appointed by such Treaty Council as is designated by the respective tribal government.

SEC. 15. JOINT POWERS AGREEMENTS

(a) Nothing in this Act shall prevent the Sioux Nation from entering into contracts and agreements with any state, political sub-division of any state, or private person, corporation or foundation to fulfill any purpose of this Act or obligation of the Sioux Nation arising under this Act.

SEC. 16. EXISTING ACCESS; MINERAL LEASES; GRAZING PERMITS; TIMBER LEASES, PERMITS, CONTRACTS.

(a) Nothing in this Act shall deprive any person or government of any valid existing right of use or possession, or any contract right, which that person or government may have in any of the lands conveyed to the Sioux Nation, or of any existing right of access over and across such lands in accordance with the provisions of such contracts or the terms of such existing right.

(b) All existing mineral leases involving lands reconveyed under this Act, including oil and gas leases, which were issued or approved pursuant to federal law prior to the enactment of this Act, shall remain in full force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, applications for mineral leases under federal law involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and advanced rental payments returned to the applicants.

(c) Persons holding grazing permits from an agency of the United States as of the date of this Act involving lands reconveyed hereunder shall continue exercising such grazing rights, subject to all otherwise applicable terms, except that no grazing fees shall be payable by the existing permittee for a term not to exceed two years or the balance of such existing permit, whichever is less. Such grazing permits shall be administered by the Sioux National Council in accordance with all otherwise applicable federal rules and regulations. Such grazing rights may be cancelled by the National Council in accordance with such regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Such grazing rights shall be non-transferable, except that they may be relinquished by the permittee to the Sioux Nation at any time. Thereinafter all grazing permits shall be issued under the laws of the Sioux Nation.

(d) Persons holding timber leases, permits or contracts from an agency of the United States as of the date of this Act involving lands reconveyed hereunder, shall have the right to continue exercising such rights as may be granted pursuant to such leases, permits or contracts, subject to all otherwise applicable terms, conditions and federal rules and regulations governing such timber rights, until such rights would normally expire; provided that the Sioux National Council may obtain the relinquishment of any such leases, permits or contracts from the lessees or permittees under such terms and conditions as may be mutually agreeable. Such timber rights shall be administered by the Sioux National Council in accordance with all otherwise applicable federal rules and regulations. Such timber rights may be cancelled by the Sioux National Council in accordance with such applicable regulations for failure to meet the terms and conditions of the existing leases, permits or contracts, or failure to abide by applicable rules and regulations. Such existing timber rights shall be non-transferable, except that they may be relinquished by the permittee or acquired by the Sioux Nation at any time.

(e) From the date of enactment of this Act, 75 percent of all fees derived from timber permits, leases, permits, or contracts affected by this section shall be paid as provided by section 12(c) of this Act. Twenty-five percent of all fees from timber permits, leases or contracts affected by this section shall be paid to the state county governments within which the lands from which the fees are derived are located for a period of five years from the date of enactment of this Act without restriction. Thereafter, 25 percent of such fees shall continue to be paid to such counties for such public expenditures as the Sioux Nation and county may agree pursuant to joint powers agreements entered into for periods not exceeding ten years.

SEC. 17. HUNTING AND FISHING.

The Sioux Nation shall have exclusive jurisdiction to regulate hunting and fishing on all lands, lakes and streams conveyed to it within the re-established area.

SEC. 18. INDIVIDUAL SETTLEMENT IN THE RE-ESTABLISHED AREA.

Members of the tribes constituting the Sioux Nation shall be eligible to receive twenty-five year family use permits to an area not to exceed two and one-half acres per head of household and shall be allowed to settle and construct homes and other improvements on Sioux Nation lands within the re-established area in accordance with a comprehensive land use plan developed by the Sioux National Council covering all lands within the re-established area. Such plan shall insure the proper management and use of lands reconveyed pursuant to this Act consistent with the Lakota principle of "respect for the earth", resource conservation and accepted resource management practices.

SEC. 19. EFFECT ON SUBSISTING TREATIES.

All treaties formerly entered into between the United States and the Sioux Nation, to the extent not inconsistent with the Act, are continued in full force and effect, and any other claims which the Sioux Nation or its bands may have against the United States are neither extinguished nor prejudiced. All rights and exemptions, both political or territorial, which are not expressly delegated to the federal or state governments by this Act or any prior treaty or agreement is hereby reserved to the Sioux Nation and any bands thereof.

SEC. 20. INCONSISTENT LAWS.

The provisions of the Sioux Nation Black Hills Act supercede all laws of the United States which are inconsistent with the Act, including laws generally applicable to "Indians".

SEC. 21. JURISDICTION.

(a) Article 1 of the Treaty of April 29, 1868, shall continue in full force and effect, to the extent that the Sioux Nation, upon sufficient proof made by the United States Attorney to a justice of the appropriate Sioux Nation Court at a hearing convened for that purpose, shall deliver to the United States for trial and punishment any non-Indian who commits a crime under 18 U.S.C. 1153.

(b) Notwithstanding the foregoing, the Sioux Nation may reassume unrestricted criminal jurisdiction over non-Indians at such time as the Sioux Nation and Congress may agree.

(c) All persons within the jurisdiction of the Sioux Nation may bring an action in the tribal courts of the Sioux Nation and all persons residing within the re-established area shall have the right to petition and address the National Council.

SEC. 22. EXTINGUISHMENT OF CLAIMS.

(a) All claims of the Sioux Nation and of any successor-in-interest of the parties to the Treaty of April 29, 1868 (15 Stat. 635) which arise from the taking pursuant to the Act of February 28, 1877 (19 Stat. 254), of the lands described in section 4 shall be extinguished on the date on which all the transfers of property required under section 5(b) are completed.

(b) All transfers of any interest in the lands described in section 4 that would be valid under the laws of South Dakota but for the unconstitutional taking of such lands pursuant to the Act of February 28, 1877 (19 Stat. 254) are hereby declared to be valid and in accordance with the laws of the United States.

The CHAIRMAN. The Sioux Nation lost the Black Hills and much more under tragic circumstances in the years after the American Civil War.

The 1868 Treaty of Fort Laramie guaranteed that the Sioux would have—and I am quoting from the treaty—"absolute and undisturbed use and occupation" of much of what is now South Dakota including, of course, the Black Hills.

Then, in 1874, a military expedition under command of General Custer reported that there was gold in the Black Hills. This led inevitably to strong attempts by the Grant administration to acquire the Black Hills.

The death of General Custer and his men at Little Big Horn on June 25, 1876, was reported in Washington on July 5, 1876, in the middle of the centennial celebration. We can all imagine the consternation. An angry Congress attached a "sell or starve" rider to the Indian Appropriations Act of August 15, 1876, requiring the Sioux to cede the Black Hills or go without rations.

I can't really resist telling my good friend and colleague on the subcommittee and my colleague, Senator Bradley, that those of us out in the Dakotas look on that as the move West of a political seeker of the Presidency. As a matter of fact, history pretty well records out in the Dakotas that General Custer was told by a few eastern political writers to go out West and gain himself a couple of big victories and the Democratic nomination for the Presidency would be his—the Democratic nomination.

As a matter of fact, many historians hold that if Custer hadn't been so anxious to get to the river boat on the Missouri and go down the Missouri to the St. Louis national convention the Democratic Party was holding that he wouldn't have gotten that far ahead of Major Reno and his reinforcement troops, and he probably wouldn't have gained the notoriety he gained if he hadn't carried those eastern political riders and writers along with him to the tragic consequence.

But let me also caution my Democratic colleagues that that is what happens when folks come out to the Dakotas and try to make political whoopy. We natives sort of resist them. We just want to point that out, too.

Anyway, with that aside from history, let me point out that the Sioux stood firm until February 28, 1877 when Congress effected the acquisition of the Black Hills—over 7 million acres.

Ever since that time, the Sioux have been trying to get the Black Hills back and the Government has resisted. Finally, in 1980, the Supreme Court, in ruling on the Sioux claim, stated that a worse "case of dishonorable dealing will never be found in our history."

I am most pleased to see so many old friends from the Sioux Indian community, and I want to thank our good friend, Senator Bradley, for bringing us together to consider once again this solemn situation in the Black Hills. Before calling our first witness, I would like to ask my colleague and good friend, the great Senator from Hawaii, Senator Inouye, if he has any opening statement.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

Senator INOUYE. Mr. Chairman, I would like to commend my dear friend from New Jersey for exerting his leadership in this important area. I agree with him wholly that its time has long past, and I think that this matter should be considered expeditiously by this committee and, hopefully, by the Congress.

The CHAIRMAN. Thank you, Senator.

Before calling Senator Bradley who will, of course, be our first witness, I would like to ask Frank Fools Crow, a traditionally Sioux spiritual leader, to provide a brief prayer.

[Prayer offered by Frank Fools Crow, chief, Lakota Treaty Council.]

The CHAIRMAN. Our first witness will be the author of this legislation, the Honorable Bill Bradley, a Senator from the State of New Jersey. It is good to have you here.

STATEMENT OF HON. BILL BRADLEY, U.S. SENATOR FROM NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman and Senator Inouye. Thank you very much for the chance to come before the committee, and let me express my appreciation to you, Mr. Chairman, for scheduling this hearing. I think it is important that you have demonstrated the seriousness with which you treat this issue by scheduling the hearing and allowing the representatives of the Sioux Nation to come before the committee today, as well as other interested parties, to offer their views of this legislation.

Mr. Chairman, the legislation considered today has as simple purpose: To right a wrong committed by the United States more than 100 years ago. The bill would restore to the Sioux Tribes a portion of the lands awarded to them by the 1868 treaty and subsequently illegally taken from them.

In 1851—and some of this history you have gone over—the Sioux Nation signed a treaty that established a large Sioux reservation including all of the present State of South Dakota as well as parts of Nebraska, Wyoming, North Dakota, and Montana. However, in its deliberations, the U.S. Senate added amendments which were rejected by the Sioux, and the treaty was never finally ratified.

The result was the Powder River War of 1866-67. The war ended in a second treaty, signed at Fort Laramie on April 29, 1868, and later ratified by the Senate. It established the Great Sioux Reservation which included approximately half of South Dakota, essentially everything west of the Missouri River, and authorized extensive hunting grounds covering large parts of North Dakota, Wyoming, Colorado, Kansas, and Nebraska. The United States "solemnly agreed" that no unauthorized persons "shall ever be permitted to pass over, settle upon, or reside in this territory."

Prior to signing the treaty, both the U.S. Government and the Sioux knew that at least small deposits of gold existed in the Black Hills, the western-most portion of the Great Sioux Reservation. In 1874, following rumors of large deposits, Lt. Col. George Custer led an expedition into the Black Hills which confirmed the existence of gold. Despite the terms of the treaty requiring the U.S. Government to keep non-Indians out of the reservation, prospectors swarmed into the region. In 1875, President Grant unilaterally decided to abandon the treaty obligations.

The Government attempted to buy the land in 1876 from the Sioux for about $6 million, but the Sioux dismissed this offer. Negotiations broke down, leading to further violence which culminated in the Sioux victory over Custer at Little Big Horn.

That victory was short-lived, however. The Sioux were soon defeated and were deprived of horses and weapons. They were returned to their reservation and became dependent on the Government for their survival.

The Government threatened the Sioux with starvation unless they ceded the Black Hills back to the Federal Government. Another commission was sent to negotiate with the Sioux, but the negotiations consisted of presently the Sioux with a prepared treaty text which the tribes had no choice but to accept. The Sioux were forced to give up all rights to the Black Hills as well as to their hunting grounds in lands outside the reservation.

Since 1877, the Sioux have contested this taking in a number of law suits. In 1974, the Indian Claims Commission found the Sioux claims to be legitimate and awarded the Sioux $17 million, the value of the land in 1877, plus interest which amounted to $88 million. In 1980, the Supreme Court affirmed the award of the Commission, citing in its conclusion that "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history."

The Fort Laramie Treaty had provided that none of the lands set aside for the Sioux could be ceded back to the Government without consent of three-quarters of all adult males. The 1877 treaty was signed by only about 10 percent of adult males. Ignoring this, Congress enacted the agreement into law, and it is this law that the Supreme Court found unconstitutional in 1980.

The $105 million—$17 million plus interest since 1877—was appropriated in 1980 and is drawing interest in an account at Treasury. That fund now amounts to approximately $160 million.

The Sioux have maintained that the Black Hills should not be sold. They have argued that their claims to their ancestral lands should not be relinquished. The Black Hills have a deep religious significance for the Sioux Nation, a significance this Government should respect. As others at this hearing can eloquently testify, to the Sioux, the Black Hills are sacred. They call the Black Hills "the heart of everything that is," and later testimony will elaborate on that point.

The bill we consider today is a recognition of the errors of the past. The claims courts could only award monetary compensation for the illegal taking of the Sioux land. It is within the power of Congress to mitigate the wrong in another way, by restoring some of the land.

Of the 7.3 million acres taken from the Sioux in 1877, this bill would return up to 1.3 million acres. The bill would cede to the Sioux Nation only those portions of the Black Hills region that are still federally owned and not all Federal land would be ceded. For example, Mount Rushmore would not be touched. Land for court houses, buildings, rights-of-way, and military bases would not be affected. No private or State-owned lands would be transferred.

In addition, the bill provides that nothing shall deprive any person or government of any valid existing right to access mineral leases, timber leases, grazing rights, permits, or contracts. As compensation to the Sioux for having been deprived of the use of these lands since 1877, the bill would award them the amount of money already appropriated and drawing interest in the Treasury. Finally, the bill establishes a Sioux National Park to be owned and operated by the Sioux Nation and open to all.

Mr. Chairman, history will judge us by our deeds. We now have an opportunity to write a new chapter in the history of our deeds dealing with the Sioux people. This new chapter could, indeed, be one of honor and of understanding, and I hope we do not allow this opportunity to slip away.

Mr. Chairman, I personally thank you for holding these hearings. I urge you to listen carefully to the strong testimony and the many voices which will follow mine at this hearing. These witnesses include official representatives of all eight Sioux tribal councils as well as community and business leaders and private landowners. I hope that this committee will see the need for this legislative remedy and act swiftly and positively.

Mr. Chairman, I am prepared to answer any questions that you might pose or the committee might pose.

Mr. **Chairman**. Thank you very much, Senator.

Let me, in order to tie down the intent of you as the author of this legislation so that there will be no mistake later on, the bill exempts Mount Rushmore and Federal facilities like military bases from transfer to the Sioux Nation but transfers Federal park land, forest reserves, and BLM lands. As you understand the bill and as you intended when you wrote the bill, will non-Indians continue to have full access to the existing park lands?

Senator **Bradley**. Yes; non-Indians would have access to the existing park land, and non-Indians would have access to the land when transferred to the Sioux. That is the purpose of the Sioux National Park.

I would hope that, if this did take place, the Sioux National Park could become a center of native American culture. Not only would one go to the Sioux National Park to learn about Red Cloud, Standing Bear, and Crazy Horse. One would also learn the Lakota creation story, the meaning of the Sun dance, and all of the other aspects associated with traditionally Lakota culture. Not only would one go there to experience what I consider to be the haunting and indeed mysterious beauty of the Black Hills and understand that in its natural setting and in the meaning of the Lakota story, but that it also might become a center of native American culture in North America.

The **Chairman**. I understand that no existing leases or rights on federally owned land would be affected by this bill, but there will be a change in the disposition of lease income. How do you intend lease income, Senator, from farming, grazing, minerals, and timber be handled under your bill?

Senator **Bradley**. There would be no change in existing leases. As to the disposition of the income, do you mean whether it would go to the Federal Government or whether the lease income would go to the Sioux?

The **Chairman**. That is right.

Senator **Bradley**. My assumption is that it would go to the Sioux. However, if the committee decided as a part of its deliberation that the Federal Government should continue to get the lease income, that in my view, is not an important criterion.

The important point is that it would not break existing leases nor rights of mineral leases, timber leases, and other contracts.

The **Chairman**. And your bill, as I understand it, transfers no non-Federal land.

Senator **Bradley**. The bill transfers no non-Federal land. It transfers no land under private ownership, no land under corporate ownership, no land under State ownership. It deals only with land that is federally owned which is largely land under the control of the Bureau of Land Mangement or the National Forest Service or the Interior Department generally.

The **Chairman**. How will water rights of non-Indians or other water users be affected?

Senator **Bradley**. The bill does not address water rights. I think that clearly is something that the committee could determine. It is not my intention to change the way the land is used now nor to alter the way that the land was used at the time when it was controlled fully by the Sioux Nation.

The **Chairman**. Have you had meetings, Senator, with the non-Indian community to discuss this bill?

Senator **Bradley**. I have talked to a number of South Dakota residents, and I have talked to them about the bill. Yes; I have.

The **Chairman**. What are the results of those conversations?

Senator **Bradley**. Well, the results are actually mixed. I think that when people look at the bill and hear the first information about the bill, they think that this is a taking of private land, and they naturally become quite upset. When they realize that there is no taking of any private land or any State land, that this is simply a disposition of existing Federal land, when they are aware that all of the existing rights will be preserved, many of the objections disappear.

Now, there will be people who object to returning land to any Indian tribe and, in this case, to the Sioux, for other reasons. One will never convince someone who is opposed to returning any land to an Indian tribe or to the Sioux in this case that that is a good idea. But the premise of this approach is an attempt to right a wrong that was committed by the U.S. Government with Congress as an active participant 100 years ago.

So, I think that group who are opposed to returning land in this country is a small minority and I think that group in South Dakota is, once the facts are clearly laid out, not as large as one might expect.

The **Chairman**. Thank you very much.

Senator Inouye.

Senator **Inouye**. Thank you.

When the U.S. Government accepted Hawaii as a territory of the United States at the turn of the century, the Republic of Hawaii was required to convey to the U.S. Government large parcels of land, land which now can be described as Scofield Barracks, Pearl Harbor, et cetera.

As part of the condition, it was understood that if the Federal Government should decide at some later date that these lands were excess to their needs or surplus to their needs, these lands would be returned to Hawaii. Over the years, large parcels have been returned.

Would you object to a provision of that sort in your bill? For example, your bill does not now include military reservations as part of the lands being conveyed to the Sioux Nation, but in years to come, the Department of Defense might decide that this military reservation is no longer necessary and, therefore, surplus to their needs. Instead of returning back to the Federal Government and the GSA, it would return to the Sioux Nation. Would you object to that?

Senator **BRADLEY**. I certainly would not object to that, and I would also point out that while ownership of land, say, even military bases or courthouses, would rest with the Sioux Nation, you would want to preserve full right for the United States to use those. I think the reverse of that is that if the United States gave up the use, I would have no objection to transferring it.

Senator **INOUYE**. Thank you very much.

The **CHAIRMAN**. Thank you, Senator.

Senator Abdnor.

Senator **ABDNOR**. Senator Bradley, I was just wondering how you see the court decision handed down in 1980? Do you feel that is clear out of line?

Senator **BRADLEY**. No; I do not think the court decision was out of line. I think the court decision upheld the decision by the Indian Claims Commission.

The Indian Claims Commission, in attempting to redress the wrong that committed 100 years ago, had as its remedy only a monetary result. It could not transfer land. It addressed only what it viewed as the value of the land that was illegally taken in 1877 and what amount of money would have been earned as interest on the original value of the land from 1877 to 1980. It is that monetary award that the Indian Claims Commission awarded and that the Supreme Court upheld.

The reason that I want to go further is that I believe that it is Congress' participation in this that allows the Congress to try to mitigate the damage further by returning to the Sioux part of the land. That is my intention in offering the bill.

Senator **ABDNOR**. May I ask—I assume you had some help in drawing up the bill—do you know how the 1.3 million acres was arrived at?

Senator **BRADLEY**. How the amount of acreage was determined?

Senator **ABDNOR**. Yes.

Senator **BRADLEY**. Well, the amount of acreage in the Fort Laramie Treaty, including the area for hunting, was about 7.3 million acres. So we then said, well, let's look at reducing that amount by a significant number of acres, and then let's look at where the acres might be since the real interest is the Black Hills, area, and let's exclude those private lands and State-owned lands, et cetera, and then let's focus on where is a natural flow. The result was to come with a figure up to 1.3 million acres which amounts to, as you are well aware, the westernmost portion of South Dakota.

Senator ABDNOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Gorton.

Senator GORTON. Senator Bradley, in answering one of the chairman's questions, you, I think, professed either ignorance of what your bill does with respect to water rights or that it was a relatively mild and incidental element of the claim. As I read the bill, it conveys extensive water rights and immense control over water rights on non-Indian land. Am I incorrect?

Senator BRADLEY. Let me say to you that the control of the water rights is the control primarily of the land. If the committee chose to modify that in any respect, I think the committee is fully within their right to do so.

My intent was to take all existing rights and to preserve those rights. To the extent that there is an existing right to use water that is held by a private citizen or by the State, they would retain those rights under the legislation. That would be my intent.

Senator GORTON. What is your intent with respect to the jurisdiction of tribal courts over non-Indians?

Senator BRADLEY. I must say to you that tribal courts would have no jurisdiction over non-Indians—it is not addressed in the legislation.

Senator GORTON. Well, I believe that it is.

And is it your view as well with respect to eminent domain that you will give to this tribe the right to prevent even the United States from ever taking any land for public purposes without the consent of the tribe?

Senator BRADLEY. No; I would preserve, and I think that we should preserve, the right of eminent domain in certain emergency circumstances.

Senator GORTON. Senator, I am not sure you have read your bill.

Senator BRADLEY. I think that I have, Senator. I think that the questions that you raise are legitimate questions that the committee can address, and the committee can make the decisions related to all of these issues. The intention in offering the preservation of existing rights was an attempt to reassure people as to the intention of the bill. The bill is not to disturb existing rights, and that is the way it is drafted.

Senator GORTON. Senator Abdnor asked you about a 1980 Supreme Court decision. I gather there has been extensive litigation on this subject. Was the compensation which has been granted through various court decisions to date, compensation which was designed to cover the takings by the United States in the last quarter of the 19th century?

Senator BRADLEY. The Indian Claims Commission ruled on what the value of the land would have been in 1877 when the illegal taking took place. They assessed that at approximately $17 million, and they assessed what would be the interest that that $17 million would have earned up until the point when the final amount was set aside. That, in 1980, was an appropriation of the U.S. Congress.

It has remained in a separate account in the Treasury earning interest because the Sioux Nation chose not to take it. They chose not to take it because they believed that their interest was to actually get the land and not the monetary award. It is my understanding—and you can certainly ask the representatives of the Sioux Nation when they testify later—that they felt if they took the money, they would lose their right to get access and to get part of the land back.

That is my understanding as to why they chose not to take the money.

Senator GORTON. But the measure for compensation was as if this land had been taken by eminent domain at the time at which it was taken.

Senator BRADLEY. The only recourse that the Indian Claims Commission had was a monetary award. I do not believe that that was sufficient since the Supreme Court found that this was an illegal taking and the Congress participated in that illegal taking by passing the agreement that was entered into illegally by an insufficient number of the Sioux Nation in 1877.

That Claims Court decision was upheld by the Supreme Court, and the bill that I have introduced is an attempt to increase what has been awarded as compensation for that illegal taking.

Senator GORTON. What does your bill do with the money?

Senator BRADLEY. The bill awards what is in the Treasury account now to the Sioux Nation as compensation for the loss of use of that land since 1877. So, I go a step further than the Indian Claims Commission and the Supreme Court, and I do so because of Congress' direct involvement in the issue.

Senator GORTON. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Abdnor.

Senator ABDNOR. I just wanted to ask—I don't recall that there was ever any vote taken by the people on the affected reservation as to whether they wanted to accept that offer or not, was there? I mean, was there any kind of indication as to the pros and cons in accepting the money?

Senator BRADLEY. It is my understanding that the effort is broadly supported by all eight tribal councils. I think they will all be here to testify. You can ask them as to how that agreement was reached.

I have, over the years, worked with any number of Sioux, certainly the Black Hills steering committee, in an attempt to draft legislation that would not be threatening to the residents of South Dakota and would be able to right what is a serious wrong.

The CHAIRMAN. Thank you, Senator, for a most interesting discussion.

Senator BRADLEY. Mr. Chairman, if I could before I take my leave, let me thank you very much for the courtesy you have shown and your willingness to entertain this bill and this issue. Let me share with you again that I think this does have an importance that goes beyond just the Sioux Nation. I think this has an importance for all of us, not only in terms of righting the wrong, but in terms of preserving a native American culture that I think will have increasing importance to us as a nation as we become even more industrialized and more concerned with the fast-moving activities of getting ahead in America today.

I think there is an opportunity for renewal and for historical understanding that is offered by the potential that this legislation gives the entire country.

The CHAIRMAN. Senator, we appreciate your appearing here. You will always find a warm and courteous welcome in this committee.

Senator BRADLEY. Thank you very much.

The CHAIRMAN. Our next witness is Lloyd Meeds who is with Preston, Thorgrimson, Ellis, & Holman here in Washington.

Lloyd, it is good to have you here. You become the cleanup hitter now.

Mr. MEEDS. If I am the cleanup hitter, Mr. Chairman, the cause is in difficulty right away.

First, Mr. Chairman and members of the committee, I would like your approval to submit my statement for the record and to summarize it, if I may.

The CHAIRMAN. Let me assure our friend and my former colleague that we will be more than happy, and we can assure you that your statement will appear in the record as though you had uttered every word. It will give you more time to summarize it.

Mr. MEEDS. Thank you.

STATEMENT OF LLOYD MEEDS, PARTNER, PRESTON, THORGRIMSON, ELLIS & HOLMAN, WASHINGTON, DC

Mr. MEEDS. Mr. Chairman and members of the committee, I would like to begin by commending the committee for conducting these hearings. The hearing process is a vital one and certainly the beginning process in any legislative endeavor. It is that first step in a long journey, and I commend the committee for taking that step.

I also commend the attention of the number of Senators who are present and the vital interest of a number of those in this issue.

My respect goes to Senator Bradley for his sponsorship of this legislation. I am sure the Senator would agree with me that this bill simply commences the dialog in this committee and the Members of the Senate and the Members of the House will work their will with that legislation. This bill is not cast in concrete but is a malleable piece of legislation which this committee will and should work with. But it is a beginning of a dialog toward the resolution of a longstanding national inequity.

My own involvement, Mr. Chairman, as the chairman is well aware, stems from the 1970's when I was involved in the House as the chairman of the Indian Affairs Subcommittee in legislation affecting the Sioux claims which was then in the legislative process in both the House and the Senate.

Mr. Chairman, it is not my intent to address the question of the historic significance and the question of who did what to whom. That will be told by people much more eloquently and much better qualified to testify than myself. It is, I think, however, beyond cavil that the Sioux tribes were deprived of their heartland by an unconscionable and unconstitutional means in 1877 and that they have tried continuously, since shortly after that date, to reacquire all or parts of what constituted the Great Sioux Reservation, and they have refused to accept monetary compensation for the extinguishment of those rights.

The major question facing this committee and the Congress of the United States is not whether—but how—the Sioux shall be compensated for this taking which occurred in 1877.

I am well aware that the traditional method has been monetary compensation. As the Senator from Washington correctly pointed out, in a court of claims decision, that compensation has been made and has been placed in a trust fund in the U.S. Treasury, and the Sioux have refused to take that money.

But I would like to make the point that I think that in this instance, monetary compensation is an inadequate measure of damage, and a return of some of the land is essential to a proper disposition for a number of reasons.

First of all, as the Supreme Court pointed out, the nature of the original taking is particularly egregious. This history is replete with the problems abounding at that time with Indians and unconscionable dealings in other instances. But I agree with the Court, after having studied this history myself, that it would be difficult to find a situation in which a taking occurred under more difficult and onerous circumstances.

Second, the area covered particularly by the bill—and this responds to one of the questions of why this particular land is so important—is the heartland of the Sioux Nation. It is land of particular religious significance. That is the second major reason why I feel that it is essential to transfer to the Sioux land and this particular land, because it is of tremendous religious significance to them. It is, as they say, "the heart of everything that is."

It is not without precedent that the Congress should transfer land to native Americans which has religious significance to them. There are a number of bills that have passed both this Senate and the House of Representatives which do that.

I bring to mind the Taos Blue Lake. There is presently legislation pending with regard to Zuni religious land. Other lands have been transferred to the Pueblos both by legislation and by administrative action. The Senator from Washington and I know that land in our own State has been transferred on several occasions by administrative action and by legislation both to the Yakima and to the Makah Indians in the State of Washington.

The Sioux have tried continuously to find a forum not only for the payment of claims in monetary funds but for the transfer of the lands which they seek. Until today—and some of the Senators probably know this much better than I—I am not aware of a forum to consider the transfer or retransfer of this land, and I commend the committee for undertaking that question.

The Sioux have steadfastly refused to accept monetary compensation in extinguishment of their right to the land, even though it was awarded by the Court of Claims and affirmed by the U.S. Supreme Court and even though there is considerable interest due on that money. They have refused to take that money.

This, again, is not a case of first impression with the Congress. At least two of the Senator sitting before me are well aware—in fact, all of the Senators are well aware of the Alaska Native Claims Settlement Act under which the Alaska Natives received as partial compensation for their aboriginal and treaty rights 44 million acres of Alaska.

Last, all of the land——

The **Chairman**. Lloyd, let me interrupt you for just 1 minute. We have a vote going on over at the Ag Committee scheduled at 11. I am going to have to absent myself and ask my friend, Senator Abdnor, to chair in my absence. Hopefully, I will get back. We appreciate your coming.

Mr. **Meeds**. I thank the Senator and look forward to his return.

Last, all of the land which the Sioux seek under this legislation is presently in Federal ownership and could be transferred without disturbing private or State holdings.

Senator **Gorton**. Is it mostly national forest?

Mr. **Meeds**. Almost all national forest and BLM lands.

Finally, I must say, as a student of this history, that the Sioux have always sought the return of lands. They have never felt that they would be adequately compensated by a monetary settlement alone.

I must also say that I think that those demands and requests of the Sioux have not always been realistic. Large parts—in fact, all of South Dakota, large parts of Nebraska, Wyoming, and other States have often been demanded by the Sioux as the land due them under the Great Sioux Treaty. I think that is not at all realistic.

But this bill includes only lands in the Black Hills and only lands that are in Federal ownership. Consequently, I feel this or something like it is achievable.

Finally, while all of the Sioux have sought the return of their ancestral lands, they have never before spoken with one voice. To get eight Sioux Tribes to agree on anything is a major accomplishment. To get them to agree on a single bill dealing with the return of their ancestral land is a minor miracle.

A great deal of the credit for this position, I think, belongs to the people sitting behind me and the people who will speak to this issue later, but I think special recognition must be reserved for Gerald Clifford who has persevered in this effort.

For all of these reasons and many more which you will hear today, I feel that serious consideration should be given to the passage of this legislation. I recognize that these hearings and this legislation are just the beginning step of a long and difficult legislative trail, but please accept my thanks and my commendations for beginning that journey.

Thank you, Senators, very much.

[Prepared statement of Mr. Meeds appears in the appendix.]

Senator **Abdnor** [acting chairman]. Thank you, Mr. Meeds.

Just for my clarification, it is my understanding that the bill does exempt Mount Rushmore and Federal facilities like military bases from transfer to the Sioux Nation but transfers Federal parklands, forest reserves, and BLM land. Is that correct?

Mr. **Meeds**. That is my understanding, with certain reservations.

Senator **Abdnor**. As you understand the bill, will non-Indians as citizens of the United States continue to have full access to the existing parklands?

Mr. **Meeds**. That is the intent of the legislation.

Senator Abdnor. Let's talk about the water rights for a second. Are you completely convinced that there will be no ill effects on existing water rights?

Mr. Meeds. I have read the bill, Senator, and it is my understanding from my reading of the bill that all Federal water rights are transferred to the Sioux which is certainly a proper thing with the transfer of the land. All Indian tribes under the Winters Doctrine are entitled to the water rights accompanying Federal lands which were transferred to them in reservations either by legislation or by Executive order.

It is my understanding from my reading of the bill—and I certainly could be corrected about this—that the bill does precisely that—which is the normal thing with regard to that kind of transfer.

Senator Abdnor. I haven't taken a good look at the description of all the land at this point, but they say in the southern part there is some land in the Angustora area. There is a big water reservoir down there. Some of that water is presently being used by non-Indians. They could be stopped, couldn't they? They take water out of there for irrigation, for domestic use, for other purposes. I don't know whether that reservoir would be in the confines of the land we are talking about or not.

Mr. Meeds. It is my understanding, Senator, that the Sioux Nation, if the bill were enacted as it is, would be entitled only to those water rights which the Federal Government owns in the area.

Senator Abdnor. So, if the Federal Government has given a permit to a non-Indian, then the council or whoever will look after this land could withdraw it?

Mr. Meeds. Both under the transfer of Federal rights section of the bill and under the prohibitions section of the bill, those with existing permits would, first of all, not be included in the transfer and, second, would be protected from transfer. The permit is a valid existing right which would not be affected by the bill.

Senator Abdnor. I can't think of anything quicker problem to get stuck on that water.

Mr. Meeds. I understand, Senator.

Senator Abdnor. The Senator from Hawaii.

Senator Inouye. I would just like to welcome my friend, Mr. Meeds, and commend him for his statement. Thank you very much.

Mr. Meeds. Thank you, Senator.

Senator Abdnor. Senator Gorton.

Senator Gorton. I want to pursue, Lloyd, this question of water rights with you. You mentioned the Winters Doctrine. Is it not true that even a valid and existing water use by a private individual could be preempted as a result of a change in use and an appropriation of more water than is being used at the present time by the tribes pursuant to the ownership which they would be granted under this bill?

Mr. Meeds. If the transfer which was made by the Federal Government were prior in time—which we have mostly in Indian lands because the transfer is either by legislation or by Executive order—predate existing rights of other water users. But it is my understanding that only the rights which the Federal Government presently has in water would be transferred and that all rights which are prior existing rights under another section of the bill would protect owners of present rights to water.

Senator GORTON. I understand that, but I want to speak now to the person who is exercising a private water right in a State. In the national forest, if the Federal Government managing that national forest at the present time should decide to change its use to appropriate water which it is not now appropriating, it would have priority over that private land user date back at least to the foundation of the national forest, I think. Is that correct?

Mr. MEEDS. That is correct.

Senator GORTON. So, what you are doing here, the national forest, by definition, is really not being used, not being inhabited by people. This transfer allows the Sioux to allow their members to settle in this area and, therefore, will be much more likely to result in the preemption of existing water rights that the present situation. Is that not correct?

Mr. MEEDS. That may be, under the legislation, Senator. I have not studied it that carefully, but the Sioux would receive nothing more than the Federal Government presently has in terms of water rights.

Senator GORTON. A question on another subject. You obviously know this bill very well. Senator Bradley was incorrect, was he not, when he said that there was reserved to the Government of the United States any independent power of eminent domain for roads or anything else?

Mr. MEEDS. Far be it from me to say that a Senator of the United States is incorrect. My reading of this bill is that the right of eminent domain is not reserved by the Federal Government.

That is not unusual, however, as the Senator well knows. There is contentious litigations before the Supreme Court with regard to the question of eminent domain and Indian reservations.

Senator GORTON. I would like to refer to section 21 on jurisdiction, and I ask with some real curiosity what is designed by subsection (a) of section 21. At the present time, is the United States, in order to arrest a non-Indian in the areas which are the subject of this bill, required to go before a court of the Sioux Nation?

Mr. MEEDS. The Senator has hit upon a section which I have looked at and wondered about myself. As the Senator is well aware, the present rule of law is—not by statute but by interpretation of the Supreme Court—that Indian tribes or nations have no criminal jurisdiction over non-Indians on reservations.

This appears to me to be an attempt—and I have not talked to the drafters of the bill and would suggest that they will be in a much better position to testify to this group than I on this issue—but my reading of the bill indicates to me that it is an attempt to retain that rule of law and, at the same time, retain some of the things that were in force and effect to modify, rather, the Sioux Treaty of 1868 and to implement the rule of law at the trial stage.

So, the Senator, I think, makes a good point that there is an area there of arrest in which there could be some question.

Senator GORTON. Well, right now, the U.S. marshal can make an arrest for violation of Federal statute, can he not?

Mr. **Meeds**. He can make an arrest of an Indian, a non-Indian for an offense and an Indian for some offenses.

Senator **Gorton**. And it would seem to me that subsection (a) therefore rather greatly circumscribes that right. It is not the implication of subsection (a) that a U.S. marshal can't even go on this 1.3 million acres to arrest a non-Indian without the permission of a tribal court?

Mr. **Meeds**. The section does not say that, but it is certainly subject to that interpretation, and the Senator who is an astute and long-time student of Indian law and of court decisions has certainly pointed up an area of controversy.

Senator **Gorton**. I would like your views—obviously, they will have to come somewhat later—as to whether or not the rule implied in that section 21(a) exists anywhere in the United States on an Indian reservation.

Mr. **Meeds**. In section 21(a)?

Senator **Gorton**. Yes.

Mr. **Meeds**. If the section says—and, again, I point out that I don't think it says that, but it may be subject to that interpretation—if it says that a Federal marshal, or for that matter, local police cannot arrest a non-Indian on the reservation, that is contrary to the present rule of law as enunciated in a case arising in our own State on one of the reservations in which Indian nations were denied criminal jurisdiction of non-Indians on the reservation.

Senator **Gorton**. Well, we can follow this up later. Those are two different cases. The rule with respect to whether or not an Indian tribal court has jurisdiction over a non-Indian is somewhat different from the case as to whether or not law enforcement authorities of the United States can go on a reservation to arrest a non-Indian for an infraction of the laws of the United States.

Mr. **Meeds**. It clearly is, I think this language tries to tread that final line, and I certainly would expect the Senators to ask their very fine counsel to give them information about how to best do that.

Senator **Gorton**. In your view, is there anything meant by section 21(b) which doesn't state present law? I assume the Congress and an Indian tribe make that kind of agreement through general law anywhere, couldn't they?

Mr. **Meeds**. My view exactly comports with the Senator's that 21(b) does realy nothing, because the Sioux Nation and the Congress of the United States could always agree on that issue or disagree.

Senator **Gorton**. Unless it were determined that Congress couldn't grant such jurisdiction pursuant to the Constitution.

Mr. **Meeds**. That is another issue, but clearly, the Congress has plenary authority over Indians.

Senator **Gorton**. Thank you.

Senator **Abdnor**. Thank you.

The Senator from North Dakota, Senator Burdick.

Senator **Burdick**. I have no questions, Mr. Chairman.

Senator **Abdnor**. I guess that is all, Mr. Meeds. It has been a pleasure having you here. Of course, you know we may be calling upon you again for further information.

Mr. MEEDS. I thank the Senator from South Dakota for this opportunity.

Senator ABDNOR. Thank you.

Our next witness is my good friend and a well-known distinguished gentleman from South Dakota, and a good friend of mine, Mr. Fools Crow, and his interpreter, Mel Lone Hill.

Gentlemen, we welcome you both to the committee.

Mr. Fools Crow, we are looking forward to hearing from you, and we know you have Mr. Mel Lone Hill at your side as your interpreter. You may proceed in any manner you care to.

Mr. LONE HILL. I just explained to him that it is his turn to speak. He is kind of hard of hearing, so I have to sometimes holler.

Senator ABDNOR. Go right ahead. Whatever you need to do, you do so.

Mr. LONE HILL. OK. Thank you.

STATEMENT OF FRANK FOOLS CROW, CHIEF, LAKOTA TREATY COUNCIL, KYLE, SD, AS INTERPRETED BY MEL LONE HILL

Mr. LONE HILL. He said, as of today, I am telling you that these people who represent the other bands of the Sioux will go back in the Black Hills. He said, you have filled your pockets, you have enough in your pockets now. So, that is why we are going back in the Black Hills.

He said, who has more power than the great spirit? The great spirit has given the Black Hills to the Sioux. That is why the Black Hills are ours. We will go back into the Black Hills.

All of the dwellings that have been permanently built in the Black Hills, he said, will belong to the Sioux when they go back into the Black Hills, because the land that they built it on owns the property that is on it.

He said, that is all that I want to say, and I would like to thank you.

Senator ABDNOR. Well, we thank you, please tell him that we know this was a very long and difficult trip for him to make, and we know he feels very strongly about this issue. There is probably no one who knows the history better than Mr. Fools Crow, and we thank him for his appearance here today.

Thank you. That will be all.

Our next witness is Mr. Aljoe Agard, a delegate from the Black Hills Steering Committee.

Senator BURDICK. Mr. Chairman, I would like to join in welcoming Mr. Aljoe Agard, a long time friend of mine. He has been in tribal affairs for many years. He is accompanied by Phyllis Young who is also very active, and it is a pleasure to see her here today. We also welcome Mr. Everett Iron Eyes.

Senator ABDNOR. Yes; Mr. Everett Iron Eyes and Ms. Phyllis Young accompany Mr. Agard.

I guess we will start with you, Mr. Agard. Let me assure all of you that your entire statements will be made a part of the permanent record. If you care to summarize, I see we have a long list of witnesses, but I don't want to rush you in any way. However, you can summarize where you find the opportunity to do so.

STATEMENT OF ALJOE AGARD, DELEGATE, BLACK HILLS STEERING COMMITTEE, AND TRIBAL COUNCIL MEMBER, STANDING ROCK SIOUX TRIBE, ACCOMPANIED BY EVERETT IRON EYES, AND PHYLLIS YOUNG, FORT YATES, ND

Mr. **Agard**. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am Aljoe Agard, and I am a member of the Black Hills Steering Committee and a member of the Standing Rock Tribal Council. We Sioux at Standing Rock are Hunkpapas, the tribe of the great Chiefs Gall, Sitting Bull, and many others.

I am here today to talk about S. 1453, the Sioux Nation Black Hills Act. I would like to thank Senator Bradley for introducing this bill. I would also like to thank Senator Andrews, Senator Burdick, Senator Abdnor, and the other members of the Senate Select Committee on Indian Affairs for agreeing to hold a hearing on this important bill.

S. 1453 would restore part of the sacred Black Hills, the great Paha Sapa, to the Sioux Nation. It has been over 100 years since the Federal Government broke faith with our people and illegally tried to take the Black Hills from us. After so long a time, complete justice cannot be done. We cannot turn back the clock. But this bill goes a long way in the right direction, and we strongly support it.

Even if the bill is not enacted this year, we will continue our fight for the restoration of our sacred lands. We have not given up in 100 years, and we will not give up now.

In 1868, the Sioux Nation made a treaty with the United States. That treaty recognized our right to the Black Hills and many other lands. Only the Sioux Nation was to have the right to occupy this land or even to travel over it.

Members of the Committee, there were only two things that caused the Government to break the 1868 treaty and deny our right to the Black Hills. These two things were gold and greed. Once many white men learned that there was gold in the Black Hills, they began to move in, driven by greed. At first, the U.S. Army made weak efforts to keep the greedy men out. But the pressure to disregard the treaty became too strong. The Government finally decided, without telling the Sioux, to stop protecting our rights to our land. The Army no longer stopped any prospector who wanted to enter the Black Hills.

The Sioux tried to drive the prospectors out, and, many times, we were successful, perhaps too successful. Our efforts to protect our land made the Government angry. The Government decided that we must give up our land. They tried everything—negotiations, threats, and then fierce attacks by the Army.

Nothing worked. We refused to sell our land. How could we sell it? As Crazy Horse said, "One does not sell the earth upon which the people walk." And when General Custer tried to wipe us out, we defeated him in the great battle of Little Big Horn.

The Government then decided to starve us into selling our land. They cutoff all our rations and sent a commission to make an agreement with us. But the usual threats and bribes did not work.

Under the 1868 treaty, no agreement was valid unless it was approved by three-fourths of the adult male Sioux. Less than 10 percent of our men approved the agreement.

Having totally failed to either fight us, bribe us, or starve us into selling our land, Congress then passed a law trying to take the Black Hills. But it is my firm belief, and the firm belief of the entire Sioux Nation, that these illegal acts did not succeed in tearing the sacred Paha Sapa away from us.

As the committee knows, the U.S. Court of Claims has awarded the Sioux Nation $105 million as compensation for the Black Hills. We could have had all this money and spent it years ago. Many of our people are poor; many are unemployed. Many of them live in terrible, run-down houses and do not have enough clothes or even food. Our individual Sioux people could certainly use this money. Our tribal governments have had to cope with Federal budget cuts and other severe economic problems; they could use the money, too. But we will never accept a single cent of money for the Black Hills unless the Federal Government recognizes our right to the Black Hills land and restores to us as much of this land as possible.

S. 1453 would restore to the Sioux Nation most of the Federal land in the Black Hills. It would allow us to keep sacred religious sites and wilderness areas for the exclusive use of the Sioux Nation. It would recognize and protect our water rights and our right to hunt and fish. It would give individual Sioux families the right to live on the restored lands. It would create a Sioux National Council that would govern and manage the restored lands.

These provisions recognize the Sioux people as a great nation capable of governing their own affairs and caring for their own land. They also recognize that our right to the Black Hills has never been extinguished, in spite of all the attempts to do so. We urge the committee to approve this bill as soon as possible.

S. 1453 is a very fair bill. It is just as fair for white citizens as it is for the Sioux people. It does not disturb private land rights and would allow white citizens to use and enjoy most of the parkland in the Black Hills, it would leave in place valid mineral leases, grazing permits, and timber leases.

We have agreed to provisions like these because we do not wish to be unjust to anyone. We know that no one can right a wrong by doing even more wrong.

The United States is a great country. Our Sioux sons and daughters have proudly served it in times of war and times of peace. But in many of its past dealings with the Sioux Nation, the Government was neither fair nor honorable. Treaties were broken, land stolen, our great leaders killed, our dignity and sovereignty diminished.

S. 1453 gives all of us a great opportunity to put this sorry history behind us once and for all. Enactment of S. 1453 would be a proud achievement for both the United States and the Sioux Nation.

Mr. Chairman, I also have here a peace pipe which I would like to present to the committee. In the Sioux tradition, the pipe is of great spiritual significance. It symbolizes the highest aspirations of our people to live in peace and harmony with our fellow men and the world around us. The pipe passes on this ideal from one generation to the next.

In recent weeks , there has been a great deal of attention paid to the ideals of the United States as symbolized by the Statue of Liberty. Many have commented on what great things this country has done for the immigrants. But the ideals of the United States cannot be fully realized until justice is done for all, including the original inhabitants of America.

It is said that only the hands of the good shall take care of the sacred pipe. In presenting this pipe to the committee, it is our hope that it will rekindle the spirit of peace and friendship between the United States and the Sioux Nation.

[Prepared statement of Mr. Agard appears in the appendix.]

Senator ABDNOR. Thank you very much. I am sure the committee and all of us appreciate this very much. Maybe this will help keep a sense of peace all the way through our deliberations from now until eternity here. Pete can bring it out any time he sees us battling one another here and say here is the peace pipe; let's make use of it. It is a beautiful one, and we thank you very, very much.

Before I call on Mr. Iron Eyes, I just want to say that the members of this committee are bouncing around here, but we serve on so many committees and subcommittees—I happen to be chairman of the national water policy conference committee between the House and the Senate. We are dragging our feet, and I have a very important meeting with the other chairman from the House to get together before we try to get our two groups to agree. Maybe I should carry the peace pipe with me when I go there, too.

Any time you deal with water issues, you are in a very controversial thing, but I know the Senator from North Dakota is just as eager for me to get that conference committee settled so we can get some matters from North Dakota taken care of as well.

I am going to have to leave for a while. Senator Burdick, if you don't mind, I would be very grateful if you would fill in here. Thank you.

Senator BURDICK. (acting chairman). Mr. Iron Eyes.

Mr. IRON EYES. Senator, I don't have a prepared statement. I am here to accompany Mr. Agard, and I will defer to Ms. Young who has a prepared statement.

Senator BURDICK. Well, then, Phyllis Young, do you care to be heard?

Ms. YOUNG. Thank you.

Mr. Chairman, distinguished members of the committee, ladies and gentlemen, and all my relatives, my name is Phyllis Young. I am a member of the standing Rock Sioux Tribe. I would like to thank you for allowing me the privilege of speaking here today on behalf of the Standing Rock Sioux Tribe on this very historic occasion.

The Standing Rock Reservation is comprised of Indian people of Hunkpapa, Blackfeet, Upper Yanktonai, and Cuthead Bands of the Lakota/Dakota who have signed the Fort Laramie Treaty of April 29, 1868. This treaty was a treaty of peace and friendship which determined the boundaries of the Sioux Nation, and within those boundaries are the Black Hills which have always been the religious center for our people.

Since the signing of the Fort Laramie Treaty, there have been legislative fiat, judicial, and executive decisions affecting the ownership of the Black Hills, treaty rights, and natural resources, including water rights of the Standing Rock Sioux Tribe.

The Standing Rock Sioux Reservation is only one part of the Great Sioux Nation, and our bands traditionally served as the vanguard and ambassadors of peace and friendship to those outside our circle.

In 1974, the Standing Rock Sioux Tribe hosted the First International Indian Treaty Conference to gain legal and political support for our cause and, more importantly, to take our rightful place as people who possess the same rights afforded to every nation in the civilized world. Since that time, the most critical element, our own people, have become involved in the democratic process of addressing the Black Hills claim and the 1868 treaty. This has been evident by tribal court actions, petitions to the Secretary of Interior, a tribal referendum, tribal resolutions, positions and statements from individuals, treaty councils, and local communities.

However, it has not been easy. There were no winners. There were no losers. However, it has been a very healthy 12 years on Standing Rock. There were many forums open at all times to those members who sought redress and who decided to participate and express themselves.

In the 12 years that have passed, the Standing Rock Sioux Tribal Council has served as an example of the democratic process and how it works in Indian country. We are proud of that.

The result of the initiative 12 years ago and the previous 66 years is that we are now on the doorstep of the Congress of the United States. There is no one on Standing Rock who disagrees that the Black Hills issue should be discussed at the congressional level. We are prepared to pursue this new beginning diligently and on a long-term basis.

The most critical issue facing the Standing Rock Sioux Tribe today deals with section 6 of S. 1453, water rights. We are opposed to the wording of section 6 as there is a lack of information about the hydrology in the area. The ecological importance of the land surrounding the area to be transferred is critical. However, we will leave the technical portion of that section to the staff.

The Sioux Nation sacrificed more land than any group in America for water development in the national interest. Standing Rock sacrificed 55,000 acres for the Oahe Dam. Article 12 which is the three-fourths clause has never been exercised, and it is the lack of exercise of article 12 that has prevented the Sioux from participating in our own destiny.

The Federal agencies involved in the Pick-Sloan Program have never acknowledged the legal provisions of the 1868 treaty and the Winters doctrine. The Standing Rock Sioux Tribe should be guaranteed the enforcement of its Winters rights and no further encroachment upon those rights.

Compensation is also sought from the United States for the violations of the tribe's rights to the extent they have occurred. The Standing Rock Sioux Tribe's analysis of economic loss resulting from the lands taken from the Standing Rock Sioux Tribe for the Oahe Dam is in the amount of $441,467,389. The Oahe Dam destroyed more Indian land than any other public works project in America.

Member of the Standing Rock Sioux Tribe have participated in legal actions to save sacred lands in the Black Hills, specifically with Civ. 80-3045 in the U.S. District Court of South Dakota at Craven Canyon. Union Carbide had intended to remove 5,400 tons of uranium and to destroy some ancient pictographs we sought to preserve.

Craven Canyon is sacred and vital to our people, and the rock art sites have been interpreted by the traditional people, including Mr. David Spotted Horse from Standing Rock. Although Craven Canyon has special and exceptional historic and archeological significance, it is not listed as a national historic site and, therefore, there was no law to protect and preserve it.

This lawsuit, so far, has done this.

Expert testimony additionally made the point that "there is no threshold for biological damage by radiation, and there is no safe amount of radiation to which a person can be exposed." This is in regard to the removal and mining of uranium in the Black Hills. This is why S. 1453 is so critical not only to the Lakota/Dakota people and not only to the citizens of South Dakota but to the total ecosystem.

Attached is an historical summary of the Standing Rock Reservation. For the record, we are also submitting several volumes of legal, legislative, and tribal documentation in regard to the 1868 treaty and the Black Hills.

The Lakota/Dakota people live within the No. 1 strategic and restricted area which is the largest military reservation in the nuclear war zone in the United States. It is imperative, with the U.S. ratification of the Convention on the Prevention and Punishment of the Crime of Genocide on February 19, 1986, that remedies be found for the promotion and protection of our inherent rights to the land and water, especially the areas in S. 1453.

The Standing Rock Sioux Tribe and its membership desire to live in peace and freedom from the dangers of nuclear war, to participate in the economic development of our own resources, and to preserve a healthy environment for those living around us. Our ancestors allowed other people to come to this land to live in peace and to prosper. We respectfully request that we be accorded the dignity to do likewise.

Mr. Chairman and members of the committee, you are representative of the greatest country in the world. Your ancestors who were great men sought to deal with the Sioux Nation on the highest level—through treaties. You are the only country in the world which gave such status to your indigenous peoples. We recognize that.

To Senator Bradley and Congressman Howard, we commend you. We thank you for according the Standing Rock Sioux Tribe this forum to participate in this historic hearing. We honor you on your initial step to allow the Sioux Nation freedom of expression. We look forward to a new beginning to determining freely our political status and our economic, social, and cultural development. We are prepared to spend a lifetime in this endeavor, as did our ancestors, to ensure a better life for our children.

We urge the enactment of S. 1453 and seek a better and brighter future by negotiating with the U.S. Congress through this instrument.

Thank you.

[Prepared statement of Ms. Young with historical summary appears in the appendix.]

[Material retained in committee files.]

Senator **Burdick**. Thank you, all three.

Our next group of witnesses will be Leland Spotted Bird, chairman of the Fort Peck Sioux Tribal Council accompanied by Emmett Buckles and Lois Red Elk, Poplar, MT.

Mr. **Taylor**. Senator Burdick has a vote in another committee meeting that he has to go to, just as Senator Abdnor had. Senator Andrews asked if I would continue with this hearing so that we could complete our record while we are all here.

So, Mr. Spotted Bird, you are first on the witness list, and why don't you take us from here.

I might add that I have just been joined by Virginia Boylan from the minority side. She works for Senator Melcher from Montana, and I know you are all from Montana.

STATEMENT OF LELAND SPOTTED BIRD, CHAIRMAN, FORT PECK SIOUX TRIBAL COUNCIL, POPLAR, MT, ACCOMPANIED BY EMMETT BUCKLES AND LOIS RED ELK

Mr. **Spotted Bird**. Thank you. What I have is short. Other written testimony will be forthcoming after the hearings.

I would like to start with thanking the Select Committee on Indian Affairs for providing this opportunity for us to address this important issue, S. 1453.

The Black Hills issue begins in 1851 at Fort Laramie in Wyoming where the tribes of the Montana and Dakota territory of the United States started treaty negotiations. Out of this great council, treaties were signed.

Sioux territory comprised most of the Dakota Territory. Later, the Sioux signed another treaty in 1868 creating the Great Sioux Reservation of the Dakotas.

With the discovery of gold in the Black Hills and the gold fields in Montana, railroads and settlers wanted access to tribal territories. It was at the cost of war and treaty violations by the United States, and it was the conflict over the 1868 treaty violations that precipitated the wars surrounding the battle of the Little Big Horn in 1876 which sent Tetons and other bands of Sioux into the Montana territory.

The Fort Peck Reservation was created in the aftermath of these wars. For the Sioux bands of Fort Peck Reservation, it was a beginning—a new history and a new life, one we did not willfully choose.

Today, many of the Sioux who live on the Fort Peck Reservation had forefathers who did reside in the Great Sioux Reservation of the Dakota territory and did not support the sale of the Black Hills.

On June 8, 1984, the Fort Peck Sioux Council went on record to join with other tribes of the great Sioux Nation in a unified effort to retain lands in the Black Hills of South Dakota. We of the delegation from Fort Peck submit resolution No. 84-6 as support for S. 1453, the Sioux Nation Black Hills Act. We urge the Congress to support and enact the Sioux Nation Black Hills Act, and I submit this resolution as part of the testimony.

I would be glad to answer any questions.

[Prepared statement of Mr. Spotted Bird with resolution appears in the appendix.]

Mr. Taylor. I don't have any questions at this time, Mr. Spotted Bird.

Mr. Buckles, do you have any statement?

Mr. BUCKLES. No; I am with Mr. Spotted Bird.

Mr. TAYLOR. Ms. Red Elk?

Ms. RED ELK. No; I do not.

Mr. TAYLOR. I don't have any questions. I think Virginia Boylan has some.

Ms. BOYLAN. I just want to clarify that since the 1984 resolution, there have been no other votes or anything to this issue?

Mr. SPOTTED BIRD. No; there has not.

Ms. BOYLAN. OK. So, the Sioux at Fort Peck fully support this bill?

Mr. SPOTTED BIRD. Yes; we do.

Ms. BOYLAN, Good. Thank you.

Mr. SPOTTED BIRD. Thank you.

Mr. TAYLOR. I would like just to observe for the record that we have also been joined by John Vance, a staff member on our committee who was on the Indian Claims Commission. He was chairman of it during a period of its existence and actually handled the Sioux case in the Indian Claims Commission. So, John has been very helpful in confirming all of the background that you people are laying out in your testimony.

Thank you all very much.

Mr. SPOTTED BIRD. Thank you.

Mr. TAYLOR. Next, we would like to call on Keith Jewett of the Cheyenne River Sioux Tribe, accompanied by Ivan Brugier, Vernon Mesteth, and Mary Lee Johns of Eagle Butte.

STATEMENT OF KEITH JEWETT, CHEYENNE RIVER SIOUX TRIBE, EAGLE BUTTE, SD; ACCOMPANIED BY IVAN BRUGIER, VERNON MESTETH, AND MARY LEE JOHNS

Mr. JEWETT. Mr. Chairman and members of the committee, my name is Keith Jewett. I am the tribal representative from the Cheyenne River Sioux Tribe, and I appreciate this opportunity to present testimony in support of the Sioux Nation Black Hills Act, S. 1453, to the Senate Select Committee on Indian Affairs.

The Miniconjou, Two Kettle, Sans Arcs, and Blackfeet bands signed the 1868 Fort Laramie Treaty. These bands of the Sioux Nation presently reside on the Cheyenne River Sioux.

We are here today to urge you to approve this very important legislation, report it favorably out of committee, and vote for its adoption. The Cheyenne River Sioux of South Dakota has participated in the united tribal effort for developing a legislative proposal and pursuing the return of the lands in the Black Hills to the Sioux Nation.

The Sioux Nation Black Hills Act was developed over a 2½ year period.

Careful attention was given to articulating and incorporating Sioux philosophical principles into the legislation. We held consultations with representatives of the Black Hills community to ensure that their concerns were respected in the legislation.

You will find that the Sioux Nation Black Hills Act is tightly drafted, is fair, and, most important, it provides the United States of America with an avenue for correcting what has been a blemish on the record of the Congress for more than 109 years.

Mr. Chairman, we are a reasonable and fair people who believe in the principles of freedom of religion, the right to our property, and to have that right protected by the laws of this great Nation, and we believe in justice. When we started our efforts, we were told by our elders and spiritual leaders that this work was necessary because the Black Hills is the core of our existence. They said, even if there is only one just man in the entire world and you must walk the entire Earth to find that one man, then that is what you must do, for generations yet unborn depend on you to protect the heart of everything that is.

We are here today because we believe that there must be more than one just man in the world, and we hope there are many in Congress.

The Black Hills is not just another local Indian issue. The Black Hills taking has been cited by the courts as a "more ripe and rank case of dishonorable dealing will never, in all probability, be found in the history of our Nation." It was the Congress of the United States that took the Black Hills, and it is the Congress that can now return the Black Hills to the Sioux Nation.

What we are asking for in S. 1453 is fair, and we think it is time for Congress to take the courageous step of writing that chapter of honor in the history of the United States' dealings with the Sioux Nation. My tribe, our people, are charter members of the Black Hills Steering Committee.

We have attached resolutions from the Cheyenne River Sioux Tribal Council regarding our position for seeking land return and supporting the Sioux Nation Black Hills Act. You will find that we are strong in our position for not accepting moneys for the Black Hills, and we will not sell our right to practice traditional religion in this most sacred of our lands. I hope you will look at this issue carefully and know that we are fair and reasonable people who have come here today seeking justice and resolution to an injustice committed against our people.

I have a continued statement backed up by resolutions, but I am going to stop there and add something of a personal note.

My name is Keith Jewett, and I have lived on that Cheyenne River Indian Reservation. My family has lived on that reservation. My grandfather has lived there, and we can trace our ancestry back to the times of the traders and how we met the French which accounts for my name, Jewett.

We have stood by this country in every war this country has ever been into. In World War I, my father served in Europe; in the Second World War, I had three uncles and a brother; in Korea, I had two brothers—all of which served this country. My brother who did not come home from Korea gives me the right to take no second seat to anyone in this country.

This is only one example, as each Memorial Day will show when you go out to the reservations of the tribes throughout the country. You will find that this tribe and these Indians throughout the country feel very proud of the U.S. Government and feel very proud to be part of that system.

When my brother did not come home, we received word that he was missing in action. It was a very sad day for us, because he went away a warrior. He will never come back, but because he gave his life, give us the right to come here and tell you of the Black Hills; why don't you be like great men; when they gave their word, they keep it.

Congress and this Government should do the same thing. We urge you to pass this act. We urge you to weed out the tangles that are in there from a positive mode. We urge you to examine the water rights issue and the Winters issue and put that position where it should be. We urge you to pass the act because we feel harmed for having been treated like a forgotten step child.

Today, we—Indian ranchers—are being forced out of business. Literally, millions of acres of land are being held in various stages of liquidation and mortgages due to a failing national farm policy. Since 1887, we have lost 85 million acres nationally through a system of the democratic process, the entrepreneur spirit hundreds of broken treaties. We want to ensure that that trust is reinstated. By the Georgia Act of the 1830's and the Dawes Act of 1887 we have seen a lot of inconsistent relationships with the tribes, and we feel it is important that you reestablish the right of the Black Hills and the Sioux Nation to have the Black Hills.

Mr. Chairman, with me is Mr. Brugier who is a standing member of the Black Hills Committee and Mary Johns who is a member of our tribe. On my left is Mr. Mesteth, also a member of the tribal council.

Thank you very much.

Mr. TAYLOR. Thank you, Mr. Jewett.

Mr. Brugier, do you have some comments?

Mr. BRUGIER. Yes; I would just like to make a few comments. I would like to thank the committee and Mr. Andrews for giving us this opportunity to speak today.

I, too, have ancestry that dates back several generations in seeking to return our lands, and even if we don't stop here or whatever we have to do, we are prepared to go for a few more generations. It is our belief and also we have it in our heart that the Black Hills is ours and will always be ours from here to eternity. I would like to add that for the record.

Thank you.

Mr. TAYLOR. Thank you, Mr. Brugier.

Ms. Johns.

Ms. JOHNS. Thank you. I would like to take this opportunity to thank the U.S. Senate for giving us the opportunity to talk and tell our story. I don't think that we have ever had this opportunity before. Before this, we always had our attorneys speaking on our behalf to the Claims Commission and in court, and this is, I believe, the first time that we as Lakota people have had the opportunity to come and tell our story.

I, too, have ancestors that go all the way back to the battle of the Little Big Horn and to the 1868 signing of the Fort Laramie Treaty. My family just recently buried a brother of mine. His name is Danny Red Horse. He was in Vietnam. When he returned, he had three Purple Hearts and was awarded the Silver Star. He, a warrior of our Lakota Nation, is buried in the Black Hills, and I am proud to stand before the U.S. Congress as a Lakota woman to tell that our people have always stood behind this Government in its time of need. We have always taken up arms, and our women have always stood behind our warriors.

We, the Lakota people, have held the Black Hills as our sacred land. We have talked in every generation, every child that is born in Sioux country is told that the Black Hills belong to them, and that land was taken from us illegally.

I, in turn, have taught my children the same thing, and they, in turn, will teach their children. So, we will always know that that land is ours.

We will never give up the fact that that land belongs to us. There might be one Sioux in this world, and he will be able to come before this Congress and this Government and tell you that that land belonged to our nation.

Thank you.

Mr. TAYLOR. Thank you, Ms. Johns.

Mr. Mesteth.

Mr. MESTETH. Thank you, Mr. Chairman.

Just briefly, I would also like to thank the committee for allowing us to appear today and to voice our opinions, our thoughts, and our trust in this Government.

I originally opposed this bill for various reasons, but at this time, I see a very positive thing happening. I agree that there are a few things that people will argue with about it, but I urge this committee to review it with all good intentions the way we brought it here.

I would urge you to remember that we are dealing on a nation-to-nation basis yet. That is the concept of our people at home, that they have sent a delegation here to visit on a nation-to-nation basis.

I know that the United States deals fairly when it talks to other nations, and I just want to remind the committee and the Members of Congress to keep that in mind when this legislation comes before you.

Again, I want to thank you very much for allowing us to be here.

Mr. TAYLOR. Thank you very much.

Mr. Jewett, I understood that there was a tribal council resolution supporting this bill?

Mr. JEWETT. Absolutely.

Mr. TAYLOR. And is that a part of your statement?

Mr. JEWETT. That will be submitted for the record, absolutely. Thank you again.

Mr. TAYLOR. Thank you very much.

[Prepared statement of Mr. Jewett appears in the appendix.]

Mr. TAYLOR. The next witness on our schedule was Ted Rouillard from the Lower Brule Tribe. I understand that Mr. Rouillard was unable to make it today, so we will move forward to Mr. Joe American Horse, chairman of the Oglala Sioux Tribe, accompanied by Sam Loud Hawk from Pine Ridge, SD.

Mr. AMERICAN HORSE. I would like to ask permission of the committee to have Mr. Mario Gonzales with us. Mr. Gonzales is our attorney. He is here today. He has helped draft the Black Hills bill. So, if it is all right, I would like to have Mr. Gonzales to answer any questions you might have on the bill.

Mr. TAYLOR. Certainly.

I would just like to announce that when we complete this panel of witnesses, we will take a short break, 5 or 10 minutes.

STATEMENT OF JOE AMERICAN HORSE, CHAIRMAN, OGLALA SIOUX TRIBE, PINE RIDGE, SD, ACCOMPANIED BY SAM LOUD HAWK AND MARIO GONZALES, ATTORNEY

Mr. AMERICAN HORSE. Mr. Chairman and members of the committee, my name is Joe American Horse. I am the president of the Oglala Sioux Tribe. I am also a descendant of the signers of the 1868 treaty. Chief American Horse signed the treaty.

The Oglala Sioux Tribe is one of the eight Lakota Sioux tribes which formally comprise the Sioux Nation recognized by the United States in many treaties. The tribe occupies the Pine Ridge Indian Reservation which was once part of the Great Sioux Reservation set aside for the Sioux Nation by the Fort Laramie Treaty of April 29, 1868. We appreciate the opportunity to testify before the committee on this important piece of legislation.

In the interest of time, I will submit my prepared statement. At this time, I would like to introduce my colleagues. Mr. Sam Loud Hawk is a steering committee member, and Mr. Mario Gonzales.

We would like to thank Mr. Taylor for making these arrangements for us and also Mr. Gerald Clifford and Mrs. Charlotte Black Elk for helping on this.

The Oglala Sioux Tribe was instrumental in organizing and supporting the Black Hills Steering Committee in a unified effort of the various Sioux Tribes to develop legislation for the return of the Federal land in the Black Hills to the Sioux Nation. The bill that was introduced by Senator Bill Bradley of New Jersey was essentially the bill that was developed through this organized effort of the steering committee. We therefore support the bill, S. 1453, and urge the select committee and the U.S. Congress to support the return of the Federal lands in the Black Hills to the Sioux Nation.

The bill corrects a 100-year-old wrong against the Lakota people caused by the United States' taking of the Black Hills in violation of the 1868 treaty and the U.S. Constitution.

The claim for the Black Hills is more compelling than any other Indian claims which Congress has resolved through legislation because it involves illegal taking of the tribal land by the Federal Government in violation of the Constitution of the illegal taking by the Federal Government and the religious significance of the land, granting the Black Hills claim will not necessarily set a precedent for other possible tribal land claims where such factors are not present.

Finally, the proposed legislation protects the interests and rights of non-Indians. The bill would return only the Federal lands, not private or State lands. Section 8 of the bill provides that the title and use of State or private land within the reestablished area shall not be disturbed.

Section 16 of the bill preserves the valid existing rights of use or possession of lands conveyed to the Sioux Nation currently held by individuals or government. That section protects the rights of persons holding mineral leases, grazing permits, timber leases, permits, or contracts from the Federal Government.

The Oglala Sioux Tribe urges this committee and the Congress to correct a longstanding wrong committed by the U.S. Government in illegally confiscating the Black Hills in 1877 against the will of the Sioux people in a series of events which the court of claims has characterized as a "ripe and rank case of dishonorable dealings." In the decision affirmed by the Supreme Court, the return of the Federal land would be in keeping with the wishes of the Indian people for the return of our land rather than a monetary settlement while recognizing the existing rights of non-Indians to the land within the restored area.

I appreciate the opportunity to express my views on behalf of the Oglala Sioux Tribe on this important issue. The Oglala Sioux tribal government did pass a resolution supporting this bill.

Also, I would like to comment on one other thing on page 16 of the bill, section 10, item (d), line 8: instead of "5 percent," that is supposed to be "50 percent." That is on page 16. It is a typographical error.

I realized that when you first have a hearing, they start asking questions about jurisdiction, about non-Indians, and about all this State park and Park Service land, et cetera. We have Mr. Gonzales here. Also, at this time, I would like to turn to my colleague, Sam Loud Hawk.

Mr. TAYLOR. Mr. Loud Hawk?

Mr. LOUD HAWK. I would just like to say we thank the Senate Select Committee for letting us take this time to present testimony on behalf of all the Oglala Sioux people back home. Thank you.

Mr. TAYLOR. Thank you.

Mr. Gonzales.

Mr. GONZALES. Thank you, Mr. Chairman.

I have a few comments in regard to some of the provisions in the bill.

In regard to section 6 pertaining to water rights, the bill simply transfers all federally reserved water rights to the Sioux Nation along with the land, and State created rights are fully preserved. This provision regarding water rights is necessary and essential since, as we know, in the recent Supreme Court case out of the State of New Mexico, such rights have to be expressly reserved. This bill does just that.

In regard to section 21, jurisdiction over non-Indians, that provision is fully consistent with *Oliphant* v. *the Saquamesh Indian Tribe* out of the State of Washington which held that tribal courts have no authority to try non-Indians. Tribes do have authority, however, to apprehend and incarcerate non-Indians and to extradite them to the proper authorities. This bill clarifies that.

There was a question as to whether the jurisdiction of the U.S. Marshal was restricted here, and I do not think that it is. The intent here is to clarify the jurisdiction of tribes to apprehend and incarcerate non-Indians and deliver them over. The Federal courts have taken the position that the U.S. Marshal's Office can, in the exercise of Federal jurisdiction, go on reservations and incarcerate non-Indian law breakers as well as Indian law breakers, and that authority is preserved under this bill.

Mr. TAYLOR. It is your understanding and it is the intention of the drafters of the bill that section 21(a) would not preclude Federal authorities from exercising the law and order authorities that they currently have within an Indian reservation. Is that correct?

Mr. GONZALES. That is correct. The current authority of the United States would still exist under this bill.

I also have some suggestions in regard to section 3, subsection (5) regarding the definition of the Sioux Nation. This may be ambiguous. All 1868 treaty tribes are included in the definition. The definition, however, at page 6, lines 19 through 21, also includes non-1868 treaty Sioux Tribes by stating that the term "Sioux Nation" shall further mean the Lakota/Dakota/Nakota bands who were members of the alliance referred to as the Seven Council Fires.

If the intent is to include only the 1868 treaty tribes which the text of the bill seems to suggest, then perhaps this language ought to be clarified. It is important that the definition of the term "Sioux Nation" be precise since the conveyance of Federal lands and other interests will be made to an entity defined as the Sioux Nation.

Second, section 10, pages 14 and 15, provides that interests off the permanent fund shall be distributed annually, 10 percent to be used by the Sioux National Council for governmental and public purposes and the remaining 90 percent to be divided and paid to the respective tribes involved. We feel that an additional 10 percent should be added to the principal each year with 80 percent being paid to the respective tribes.

The reason for this is that the principal should be allowed to grow over time since our population will also be growing at the same time, and the needs of the increased population each year will necessitate an enlarged principal.

Third, section 10(d) on page 16 appears to contain a typographical error, as suggested by Mr. American Horse. The contribution of the United States to the operation and maintenance of the Sioux Park and Black Hills Sioux Forest should probably be changed to 50 percent. The idea here is that the United States should contribute at least one-half of these costs since these lands will also be open to non-Indian use and enjoyment, and perhaps the section should be clarified so as to provide that these costs should be divided equally between the Sioux Nation and the United States on a year to year basis subsequent to the enactment of the bill.

The phrase, "the principle of 'respect for the earth'" contained in section 12(a) on page 18 and elsewhere in the bill should perhaps also be defined more clearly in section 2. This would ensure that both the Sioux Nation and individual members thereof will understand what the principle means and know what is expected of them when utilizing the lands involved here.

Section 12(c), page 20, line 1, which reads "shall be equally distributed" should perhaps be changed to read "may be equally distributed by the Sioux National Council." This would clarify the authority of the Sioux National Council to determine if and when additional income may be distributed to the respective tribes.

Then, the words "Forest Service" in section 12(d), page 20, line 9, should perhaps be changed to "Interior Department" since we understand that national grasslands are under the management of the Bureau of Land Management, which is a subagency of the Interior Department.

Last, section 18, page 24, should define the lands available for individual use permits so as to exclude park lands and other lands not intended for such use.

Thank you.

Mr. TAYLOR. Mr. Gonzales, are your recommendations incorporated in any written testimony that is being submitted?

Mr. GONZALES. No; they are not, and I apologize for that. I just got back from vacation and did not have time to prepare a written statement.

Mr. TAYLOR. The record on this hearing is going to remain open at least 2 weeks, and I would ask if you could put these recommendations down in a letter to the committee, and we will make it a part of the record.

Mr. GONZALES. I would be glad to do that.

[Prepared statement of Mr. American Horse appears in the appendix.]

[Material to be supplied by Mr. Gonzales appears in the appendix.]

Mr. TAYLOR. I do have one question with regard to the definition of "Sioux" or "Sioux Nation" in section 3(5) that you referred to. You spoke of entities other than the signatory parties to the 1868 treaty. Could you tell us which entities those are?

Mr. GONZALES. The term "Sioux Nation" has been used in different respects. For example, "Sioux Nation" has sometimes been used to define all the Sioux Tribes in the United States and at other times to define the 1868 Fort Laramie Sioux Tribes. So, the definition has never been precise.

I think the intent in this bill is that "Sioux Nation" should include only those tribes that are identified as tribes in the definition, but the additional language that I referred to is very broad. If that is not changed, in the future, there may be an expectation on the part of tribes that were not intended to be included that they have some rights arising out of this bill. By clarifying that now, it would eliminate any future controversies and possibly any future lawsuits.

Mr. TAYLOR. Mr. American Horse.

Mr. AMERICAN HORSE. Mr. Taylor, in closing, I would like to offer my appreciation for your time. I was given a book from Dave Brown from Wounded Knee. This was given to me by Mr. Pollis before the hearing, and I am going to read an excerpt:

> If a man loses anything and goes back and looks for it carefully, he will find it, and that is what the Indians are doing now when they ask you to give them the

> things that were promised them in the past. I do not consider that they should be treated like beasts, and that is the reason why I have grown up with the feelings I have. I feel that my country has gotten a bad name, and I want it to have a good name. I sit sometimes and wonder, who is it who has given it a bad name?

This is an excerpt from Chief Sitting Bull from Standing Rock. Thank you very much.

Mr. TAYLOR. Thank you very much.

We are going to take a short recess, and we will resume in 10 minutes.

[Recess.]

Mr. TAYLOR. The committee will come back to order.

We will resume testimony with Alex Lunderman, chairman of the Rosebud Sioux Tribe from Rosebud, SD. Mr. Lunderman, welcome to the committee, and we look forward to hearing your testimony.

STATEMENT OF ALEX LUNDERMAN, CHAIRMAN, ROSEBUD SIOUX TRIBE, ROSEBUD, SD

Mr. LUNDERMAN. I need to say something first, and that is thank you for allowing myself this time and this opportunity to say something in regard to the bill submitted by Senator Bradley.

I have submitted a written statement. However, there will be more forthcoming within the next 2 weeks.

I have been memorizing a speech on the way up here from Rosebud, but it all disappeared now that I sat down here. And it is good for me that that happened. I am a little nervous right now.

I am here as a result of Rosebud Sioux Tribal Council action supporting this bill. There are two resolutions involved. One is setting some funds aside for the steering committee and the Sioux National Council to deal with this bill. The other one is in full support of the bill.

Now, by the authority that was granted to me by the people through the tribal council, I am here now in support of that bill. I have heard a lot of other persons question the water rights jurisdiction. I don't think that is the issue. I think the issue is the land and respect for a nation or nations. That is why I am here, and I wish to speak to that.

I wish to speak to acts of Congress. The 1934 Indian Reorganization Act, to myself, explains a lot. Who should be sitting here with me today would be the Secretary of the Interior or a superintendent as ordered in this act.

I took time while I was sitting out in the hallway to go through this book. There is a lot of controversy about authorities, but I got to page 10 in this act. In article 6, the tribal council shall have the power to select delegates to sit in national Sioux councils. We have done that.

On page 11 of the same act, it says all officers and employees of the Interior Department are ordered to abide by the provisions of said constitution and by-laws, and that is this document.

Mr. TAYLOR. Mr. Lunderman, what is the title of that document?

Mr. LUNDERMAN. It is the Indian Reorganization Act of June 18, 1934, U.S.C. 576 Stat. 984, as amended— the Rosebud Sioux Tribe.

I think everyone forgets this little beauty, but everything is contained in here, water rights. The Government didn't give us anything. We are the ones who gave, so there should be no argument there.

On the jurisdiction, there have been some acts of Congress right after the Crow Dog and Spotted Tail incident. We know who has jurisdiction, and that is what I was talking about in this charter.

You see, this is in three parts—the constitution and bylaws, the charter, and the act itself are contained in this book.

There is another article in here which to me is quite important. The act of June 15, 1934—that is when it was ratified by Congress—this is section 4:

> All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934, 45 Stat. 984, shall be deemed to have been continuously effective as such reservation notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe where such tribe voted not to exclude itself from the application of said act.

That is just common sense to me, and I guess it is common sense to a lot of people back home.

As I say, I thank you for giving me the opportunity to be here, and I hope this bill doesn't close the door for any further actions under this act, and that is what I am looking forward to. As a result of some prayers of grandfathers and grandmothers, I feel that we are in this room today as a result of those prayers, that a spark is still there.

If nothing is resolved by this administration or my administration, our children and their children and their children will continually be coming back here, and it would not be good policy for anyone to be put under that type of stress. Like I teased Joe a little while ago and the other delegates, I am glad and I am proud to be here speaking for my tribe and the Sioux Nation. They are the ones who make me proud to be here.

But we do have a little fun, too, and like I said, the Oglalas were in front of myself. I sent them in first to mess everything up, and I am here to pull it all back together again, so we have our humor out in the hallways, too.

But I guess we are back to lack of respect. There is a lack of respect for each, and we are on a government-to-government relation. I am a tribal president. When we have a council meeting, I am a tribal chairman. We need to understand that, and that is the way I conduct myself on behalf of my people and the Sioux Nation.

With that, again I will close by thanking you, and I don't want to take up too much of your time as most of the Senators are gone and I am speaking to a tape recorder. I want to thank you for that, too. Thank you very much.

[Prepared statement of Mr. Lunderman appears in the appendix.]

Mr. TAYLOR. Mr. Lunderman, the resolution of the Rosebud Council, is that being made a part of the record?

Mr. LUNDERMAN. Yes; there are two of them in there, and there will be one forthcoming besides that after I get back home. There will be three resolutions.

Mr. TAYLOR. Thank you.

Next, we will hear from Richard Kitto, Black Hills Steering Committee delegate and member of the Santee Sioux Tribe, accompanied by John Peebles, the tribal general counsel.

STATEMENT OF RICHARD KITTO, BLACK HILLS STEERING COMMITTEE DELEGATE, SANTEE SIOUX TRIBE, NIOBRARA, NE, ACCOMPANIED BY JOHN PEEBLES, TRIBAL GENERAL COUNSEL

Mr. KITTO. Good afternoon, Mr. Chairman and committee members. I am proud to be here today. I myself was appointed by our tribal council to represent the tribe here to present this testimony, and I am greatly pleased that they did. I have served in the past on our tribal council and worked with them and led the council as chairman. So I am really pleased that they appointed me to present this testimony.

Today, you have already a 12-page document, and that document has a resolution attached to it supporting S. 1453. Mr. Peebles is accompanying me also for any technical legal questions that may come up.

One of the things that I would like to do is go into some areas that I think are good, and they will be oral. I think that some of the things that the tribe has encountered in history is very good as is its relationship to S. 1453. One of the things that the Santee people and Dakota people in line with the Sioux Nation as far back as the 1500's and 1600's is that the Santee had encountered European peoples 300 years or more ago. During these times, they had treaties and agreements with different governments, French Government, English Government, and United States Government.

The situation that had always become a reality is that those treaties were never upheld between the parties involved. Normally, they were abrogated usually by the European government, British, French, or whomever.

The problem that the Santee have seen for years was the push by governments in looking at this country as a frontier. People came here, they wanted to move west, they wanted to take the land, make their fortune and their future on what resources were out on this frontier. That constituency, the people, put pressure on the governments for abrogating and violating these treaties.

We see that this situation here has come about today over a period of 300 and some years. We as Sioux people have never really gotten a fair shake. We have always had a very bad experience with different governments.

We support fully S. 1453. Hopefully, S. 1453 is going to do a lot for Sioux Country.

It has three areas that I feel are important. One is an area of religion, one is an area of social impact, and one is an area of development.

We as a Sioux Nation are a government, and I feel that the U.S. Government recognizes us and wants to deal with us nation to nation. That has come out in President Reagan's policies over a course of years. So, we see that.

We would like to see the impact of S. 1453 in the area of tradition and religion which will help us socially. It will help a lot of our younger people. It will help a lot of the middle aged people.

People who have religious identity problems. Spiritual growth to help people understand different types of problems. It will help our societies to grow, to understand one another. It will also give us a chance to educate the non-Indian communities and societies.

In the area of economic development, it would give us an area where we could develop. We as a government should be able to govern our own lands, should be able to govern our own rights that we have, uses of whatever resources are there, and we feel that we as a nation would like that opportunity and that S. 1453 will give us that opportunity.

It was an unjust situation in treaty conditions violations that developed in the 1858 and 1868 Fort Laramie treaties. We as Indian people felt that these treaties would be the most honored by this great country. At this point, we feel that those treaties have not been honored. Hopefully, the U.S. Government will find in its heart to honor them.

We as Indian people have contributed greatly to the growth of this nation, looking at the Iroquois confederacy, looking at other Indian nations around this continent, which helped this country grow. So, we are here in support of this bill, and we pray that this committee will understand the testimonies that are presented here and support it through the Senate to have this bill passed.

Thank you.

[Prepared statement of Mr. Kitto appears in the appendix.]

Mr. TAYLOR. Thank you very much, Mr. Kitto. Needless to say, your prepared statement will be made a part of the record.

Mr. Peebles, do you have any statement?

Mr. PEEBLES. No; I do not.

Mr. TAYLOR. I would have one question for you. Mr. Gonzales testified with respect to his interpretation of section 21(a), the jurisdiction section, and the impact that it may have on the current authority of law enforcement officials to make arrests of non-Indians within the area that is described in the bill. Do you agree with Mr. Gonzales that the proper interpretation of that section would not preclude Federal and even State authorities from arresting non-Indians within this area?

Mr. PEEBLES. I think that is correct.

Mr. TAYLOR. I don't think I have any further questions. The record will stay open for an additional 2 weeks if there is anything further you would like us to have.

Mr. KITTO. If we have more, we will send it. Thank you.

Mr. TAYLOR. Thank you.

I understand Mr. Donald, McGhee, the chairman of the Crow Creek Tribe, was unable to make it also. That being the case, we will move on to Gerald Clifford, coordinator of the Black Hills Steering Committee, accompanied by Charlotte Black Elk of Manderson, SD.

Mr. Clifford, do you want to take the lead or do you defer to your better half?

Mr. CLIFFORD. I will take the lead since I have the choice.

STATEMENT OF GERALD M. CLIFFORD, COORDINATOR, BLACK HILLS STEERING COMMITTEE, MANDERSON, SD, ACCOMPANIED BY CHARLOTTE A. BLACK ELK

Mr. CLIFFORD. Thank you, Mr. Chairman.

I have a very long statement, so I am not going to read the whole thing. There are, I think, a number of expressions or questions that I think can be clarified by some explanation of the bill, so I would like to do that.

For the record, I am Gerald Clifford, and I am the coordinator of the Black Hills Steering Committee. We haven't talked too much about the steering committee, but is an entity that was set up by the tribes—and all eight tribes that are involved are formal members of that steering committee. The steering committee was set up precisely to develop this legislation and pursue land return through legislation.

In developing the legislation—it has been said here before but I think it is worth repeating again—we took great care to ensure that the legislation was balanced and fair. We did talk to the non-Indian community. We talked to people in the Black Hills area.

We had a preview of the bill prior to its introduction with the Governor of South Dakota. We have maintained our relationship and always stopped into Senator Abdnor's office, as Dick will attest to.

So, I think we have gone through the process in a very professional way and a reasonable way.

In dealing with the bill, the introductory section that lays out the purposes of the bill I am going to dwell on for 1 minute because I think that by looking at that, you can get a real good feeling for what we intended, the types of discussions that we had, and why the bill was drafted the way it was.

The first purpose listed in the purpose section is to reaffirm the boundaries of the Great Sioux Reservation. The boundaries referred to are specified in section 4 of the bill and are the boundaries that contain the land excluded from the Great Sioux Reservation by the act of February 28, 1877. So, in the copy of the testimony that I have submitted, we threw in the back a couple of maps. If you look at addendum 2, it lays out that section. I think it will be very useful to have a visual thing that the Senators can look at when they are reviewing the bill because it makes it very clear.

So, when we are talking about the Black Hills in the bill, we are talking about this whole area that was excluded in the act of 1877. So, what the bill says as far as land return is that all of the Federal lands that are held within that area be returned.

So, we are using Black Hills in, I guess, two senses. The Black Hills taking area is that area. Many times, we refer to the Black Hills proper, and we will just say the Black Hills. But for the purposes of clarifying that, we are dealing with that whole area.

Mr. TAYLOR. I am not sure that I would describe it correctly, but is the area we are dealing with that part of the State of South Dakota that is situated west of the——

Mr. CLIFFORD. It is west of the 103d meridian and also contained by the wedge that comes out between the Belle Fourche River and the Cheyenne River where they join. The actual 1877 boundaries are not exactly on the Wyoming border nor are they exactly on the North Dakota border, but we deal with that in our testimony.

I think the second purpose listed in the bill was to convey the Federal lands back. I want to reiterate that we are dealing with the Federal lands that are in that area, whether they are under the control of the Forest Service, the Park Service, or the Bureau of Land Management.

The implication of returning such lands to the Sioux Nation is that the Nation will have to have an organization, a structure, a constitution of law, of government. We heard questions about jurisdiction today, and I think it is important to note that if we hold land, we will have to have the mechanisms to hold it.

So, the bill addresses that. It addresses an interim government body and it provides for the development of a constitution that would be submitted to the members of the respective tribes for ratification within the 3-year period.

You have heard testimony today about the economic impact, and we think that purpose is a very important purpose. It says that to provide for the economic development, resource protection, and self-determination of the Sioux Nation.

The bill has a section which provides for compensation for the loss of the use of the land from the time it was taken until the date when the bill will be enacted. This section is structured to provide the basis for long-range economic development for the Sioux Nation and each of the respective tribes.

Mr. Gonzales from the Oglala Sioux Tribe indicated that perhaps the interest should go back into the principal so that it would keep up with inflation. So, I think there is some room that we can look at, and we have asked a group of financial advisers to help us with that, and you will be hearing from some of them later on.

What this would provide is consistent with the principle that is articulated by our elders all the time that we have to make decisions and be concerned with the generations to come. So, this section allows us to apply that Lakota principle to a modern situation, and it would allow us to have a fund that would continue to work for the generations to come. I think that is an important thing. I don't think there is any source of money that comes to any tribal government today that would have that kind of consistency, so I think that is really an important section.

The other purpose that is laid out in the introductory section deals with the spiritual aspects—to remove barriers to the free exercise of tradition and religion in the Black Hills, preserve the sacred Black Hills from desecration, establish a wildlife sanctuary, and for other purposes.

Again, we have, I guess, a moral imperative as Lakota people to continue to defend the Black Hills. You have heard that expressed over and over again today. But we also have a moral imperative to care for the resources of the Earth. We express it in different ways and, again, we use the principle of respect for the Earth.

Indeed, that principle would need to be articulated and criteria developed. Whether or not those criteria need to be in the bill, I think the principle is there. For the purposes of this hearing, I think we can describe that as implementing the state of the art with respect to ecological management of the resources of the

Earth. That would be a way to express it in, I guess, modern terms as opposed to the Lakota idea of respect for the Earth.

There has been a great deal of work that has gone into the development of the bill, the meetings that were had by the tribes, the debates back and forth. We know that there can be improvements. But I think that for purposes of this hearing, I hope that the committee will take seriously what we are saying about each one of these sections.

There was some reference to a section in the definitions that referred to the Seven Council Fires. There was a great deal of discussion in the steering committee about that. We have in the bill a section which allows us to develop a constitution. The discussion that was entered into at that time was when we looked at the spiritual relationship of the Lakota to the Black Hills that we found that those Sioux people who were not within these eight tribes also had within their tradition and within their beliefs that respect for the Black Hills and also talked about their grandfathers and their great grandfathers making the journey to the Black Hills to fast and to pray.

So, we coined our own word in these discussions and called it a spiritual title to the Black Hills. So, the intent of that section was that, at some point, maybe if the decision was made in the development of a constitution that if the tribes that have recognized treaty title so chose, they could leave the door open for the other members of the Great Sioux Nation to come back in. That was the intent of that section, and I think it deserves some explanation.

In terms of some of the other key things in the bill, we set out to deal with the problem of the alienation of land. Because of that, we are proposing a new way of holding land. It is not a new way; I guess it is a reasonable way. But we say that the land will be returned to the Sioux Nation in fee simple to be held by the Sioux Nation rather than to be held in trust by the Federal Government.

The second part of that and a necessary corollary, although it isn't in the same section, is that the Sioux Nation will not be taxed by the Federal Government or this land will not be taxed by the Federal Government or the States or any subdivision of the States. Again, that is based upon the experience that we have had of land alienation.

I think it is a challenge to the Senate select committee to explore those ideas that we are presenting, because the nation-to-nation relationship, I think, doesn't necessarily have to be exercised with the Federal Government holding the land in trust and acting with such a paternalistic attitude toward us. So, here is an attempt by the Sioux Nation to look at how we can maintain our land base, protect it from alienation, and how we can really develop self-determination as is laid out in the purposes.

Again, those are some of the thoughts that went into the development of that section.

The other section that was talked about to some extent, I guess, was the section 21, and I think Mr. Gonzales dealt with the proper response to the questions that were raised.

What I would like to do, I guess, is if you have any particular questions that you want to ask me about the steering committee or about any particular section of the bill, I would be glad to answer those.

Mr. TAYLOR. I would only note for the moment, before we hear from Ms. Black Elk, that the tax treatment that you are suggesting on this land really is the very same thing that the trust status confers on lands held by the U.S. for either Indian individuals or tribes. We hold it as a beneficiary for the individual or tribe, and it does enjoy tax immunity from both Federal and State tax. In that respect, you are really not diverting from what we would call the mainstream of Indian law.

Mr. CLIFFORD. I think, in response to that, Mr. Taylor, that we have had the experience of the Bureau of Indian Affairs and the Secretary of the Interior controlling the lands because they hold it in trust, and we don't hold it.

Mr. TAYLOR. I understand that would be the difference.

Mr. CLIFFORD. That is a major difference. The other point, and I think to clarify for Chairman Lunderman, is that this bill does not affect any of the jurisdictional issues, the tribal governing issues on each reservation. Each reservation maintains its own constitution and bylaws. The bill does not affect that at all.

What it does is allow a new beginning for the tribes to come together and begin to look forward and try to build a new way and a better way of coming together as Lakota people.

Mr. TAYLOR. I think the only question I might have—I have not had a chance to look at your prepared statement—but do you go into any detail at all about the series of meetings that you have had with the non-Indian community?

Mr. CLIFFORD. We mention briefly in the testimony meetings that we have had. I guess, as you know—or you may not know—the issue of the Bradley bill has come up on the floor of the Republican State convention, and my understanding is it came up on the floor of the Democratic State convention, too, so it is not an issue that is unknown in South Dakota.

I think, again, and I would urge the members of the committee to read the bill and look at what we are proposing, because it doesn't threaten the non-Indian community. It, I think, will provide an opportunity for dialog, for healing, and for a positive economic impact on the Black Hills community in the State of South Dakota.

Mr. TAYLOR. Ms. Black Elk.

Ms. BLACK ELK. Thank you.

I am Charlotte Black Elk. I am the secretary of the Black Hills Steering Committee and have served in that capacity for 3½ years. You have my prepared statement. I appended to my prepared statement also a number of documents that were developed for the steering committee. Some of this is research material.

I work in the field of primary research. I have the distinction of being, I think, the person whose testimony for the first time in U.S. district court where oral history of Lakota native peoples was accepted as admissible evidence. This finding in the Yellow Thunder Camp trial led to the finding of fact that the Black Hills are central and indispensable to the practice of Lakota religion.

We found that in going back to our origin legends, all of our old stories are teachings, that everything that is Lakota centers around the Black Hills. I have done many of the visits with the non-Indian community in South Dakota. I have found that once people understood our history, understood what was in the Sioux Nation Black Hills Act, the people were supportive.

It is a slow process. It is a process of talking to small groups, spending a lot of time talking to them. We met with the Black Hills Area Association of Country Commissioners and Elected Officials. My understanding was that to even get on their agenda was tremendous progress. We also addressed the Black Hills chapter of the Municipal League. We met with selected members of the chamber of commerce.

Last month, we met with a collection of South Dakota bankers, and they reviewed specifically section 10 and looked at helping us put together a work plan so that these moneys would in fact have the protection that the legislation provides for. They have submitted written testimony to that from the First Bank of South Dakota.

I think what we see here is we have people in South Dakota who want to be fair, who want to set behind themselves the whole black time of stealing Indian lands. I think there is a great movement toward justice and fairness in South Dakota.

I was a delegate to the Republican convention in South Dakota, and when opposition of the Bradley bill came up as a platform plank, there were two of us Indians there. We had 189 delegate votes, but we weren't the people who defeated that. It was the major counties of South Dakota which put together a coalition from the Black Hills area. The gentleman from Custer made the motion to defeat that as a platform plank.

So, I think we have people who are understanding what is happening here. I think we also have kept up a relationship with the Governor of South Dakota in keeping him appraised of what is happening.

I was very happy last fall when the Non-Partisan League of South Dakota adopted the Sioux Nation Black Hills Act as one of their platform planks. I think this is a very positive step.

In looking at understanding what our history is, I think we need to look at how hard the struggle has been for us to even reach a point where we are speaking at a hearing before the Senate. We have documents where people were persecuted and prosecuted for even speaking of the Black Hills. My own family went through tremendous persecution. My grandfather, Hollow Horn, sun danced in 1929 publicly when that was outlawed under threat of being imprisoned at the Federal penitentiary or Federal jail in South Dakota. My great grandfather, Black Elk, was denied absolution by the Catholic Church.

But this struggle continued. Today, the struggle is ours. It belongs to the generations that are here. We hope that our children and our grandchildren will not have to continue this fight. We hope that we can see justice in our lifetimes.

We also think that it behooves the Members of Congress to not leave a legacy of unfair dealings for their generations.

I appreciate this opportunity to present testimony. Thank you.

[Prepared statement of the Black Hills Steering Committee appears in the appendix.]

Mr. TAYLOR. Thank you very much.

Mr. **Doubrava**. Gerald, would you explain a little bit about how the steering committee views the management of the land, the types of things that you view as to how that operation would run, how it would be set up? I don't think that has been talked about very much.

Mr. **Clifford**. Well, there is a section of the bill that sets out a 5-year transition period. One of the things that I guess colored my approach to it in view of taking over the management of an entity was the fact that I have had that experience in having managed the tribal law enforcement program at Pine Ridge. I have had the experience of helping the takeover process with schools.

One of the things that we found was that it is both good from the standpoint of management as well as from the standpoint of politics that you make it possible for the employees of an organization to continue to work when you have a change over of control. So, the bill brings in a section that is a section of Public Law 93-638 that allows Federal employees to come to work for tribal entities and continue to maintain their retirement benefits and so on.

So, I guess there are several levels on which we have to approach the takeover of any kind of institution. One is to set up a training program so that you can move your people in. We have been talking with the Lakota colleges, and we were hoping that Mr. Bordeaux could come to address that situation, but evidently he is not going to make it.

We have talked to the colleges, and there are right now in place tracks for educating forest managers and the kinds of people who would need to go in.

So, you deal with developing the educational and training aspects. At the same time, you have to have competent people who understand during the transition period.

What we have done is use the term of 5 years. Maybe that is good, maybe it is too short, maybe it is too long, but it seemed to us to be a good transition period.

In terms of how we hold and manage the land, the bill is structured to replace the Forest Service with a Sioux forest management entity and to replace the Park Service with the Sioux Park and its appropriate management entity. In effect, I guess it is kind of like the language that we have, successor in interest language, in the initial tribes. We intend to have an orderly turnover.

I have talked several times about—and it has been addressed before—the principle of respect for the Earth. What that means is that we intend to call upon the best people to help us, whether they are Indian or non-Indian, in managing the resources so that we can ensure that we are not damaging the Earth.

We intend to call upon some of the environmental groups to help us with that. We haven't set a formal advisory group up, but we are working on it.

Mr. **Taylor**. Thank you very much.

Mr. **Clifford**. Thank you.

Mr. **Taylor**. Next, we will hear from Billy Mills, president of Billy Mills Enterprises in Fair Oaks, CA. Mr. Mills, welcome to the committee.

STATEMENT OF BILLY MILLS, PRESIDENT, BILLY MILLS ENTERPRISES, FAIR OAKS, CA

Mr. MILLS. Thank you.

Mr. Chairman and members of the committee, I would first like to briefly introduce myself. My name is Billy Mills. Although it states that I am living in Fair Oaks, CA, I am from Pine Ridge, SD. I am a member of the Oglala Sioux Tribe and spent the first 21 years of my life on the reservation.

I also want to briefly set the stage for one of the reasons why I am here. From the time I can remember, my mom and my dad talked to me about the Black Hills and how they belong to the Lakota people. I was 7 when my mom died. I was 12 when my dad died. I state that so you can further understand statements made by some of the tribal leaders how we have grown up being told that the Black Hills belong to the Lakota people.

In 1964, I won a gold medal at the Olympic games in the 10,000-meter run. Upon returning to the United States and going back to my reservation, the Lakota people, the Oglala Sioux Tribe gave me my Indian name, Makoce Tekih'ila, which means "loves his country" or, more traditionally, it means "respects the earth." Again, they told me about the Black Hills in a manner in which I was given a Black Hills gold ring.

I won one race at the Olympic games, and I have two gold medals. I was told, you won a gold medal at the Olympic games. That goes to the core of your existence, being half white. We would like to give you a gold ring, a gold medal, that goes to the core of your existence being half Lakota. I think, I have the unique distinction of being the only person to win one event at the Olympic games and have two gold medals.

I was also asked at that time to wear the Black Hills gold ring wherever I go and to wear it always and, in so doing, I must disseminate the information about the Black Hills. I have been doing that for the last 21 or 22 years. I do a lot of speaking to sales and marketing groups across the country and in foreign countries. Wherever I have gone, I have always shared information about the Black Hills.

So, it does go to the core of my existence and, in the interest of justice and honor for the United States of American, I urge our Government to support the Sioux Nation Black Hills Act, S. 1453. I urge you not only to support it but to pass it.

Gerald Clifford made some statements that I will just briefly tie into my own environment likewise. I see not only land being taken, natural resources being lost, the opportunity to hunt and to survive being taken away when the Black Hills was illegally taken from the Lakota people. More important, I not only see, but I have experienced and I have lived the fact that our soul, our spirit, the heart of a people was imprisoned from the moment the Black Hills was taken from us, the Black Hills being, as referred to earlier, the heart of everything that is.

I ran track for 15 years for 45,000 miles in pursuit of a gold medal at the Olympic games. In retrospect, I did what I did not to become what I accomplished, a gold medal at the Olympic games, but I have said many times that I did what I did to have a better perspective of who I am as a human being.

There are an incredible amount of social complexities that exist among many Indian people. I feel very strongly that with the return of the Black Hills, the bond of imprisonment would be broken. By that happening, many young Indian people, many adult Indian people, and many elderly people once again can start having a better perspective of who they are as Lakota people.

Fortunately, through the world of sports, I learned, after traveling to 56 different countries and roughly half a dozen times around the world, I learned how to walk in two worlds with one spirit. I think the greatest accomplishment that will happen among the Lakota people when the Black Hills are returned will be that, likewise, many of our people will learn that ability to walk in two worlds with one spirit.

We have that unique distinction with sovereignty and one nation against another nation, but also we are citizens of both nations. Before we can progress and start to accomplish the dreams and the aspirations that we have as a nation and as individuals and as members of two nations—at least speaking for myself, being half Indian and half white—it won't begin until the return of the Black Hills.

I urge you to study, to consult the people who drafted the bill, and I urge just the integrity of the United States to pass the bill. I feel a very equitable solution can come about, a solution that I think can—at least personally, individually—touch and bring out the feelings that I have in my heart as being half-Indian and half-white, as being a member of the Lakota Nation and a member of the United States of America. It could bring out that feeling so that I not only feel it within may heart but I can live It.

I won't take any more of your time because I know there are many other people to appear here. But in closing, I never dreamed when I was 5 years old and my mom told me that the Black Hills belonged to the Lakota people that the Lakota people would have the strength and the tenacity to fight for the heart of what is like they have been. It also hurts, because I never once thought that America could treat us as an invisible people when all we want is to contribute to make this a better tomorrow for everybody.

Thank you.

Mr. **Taylor**. Thank you very much for a very powerful statement.

Next, we will hear from Marvin Kammerer, a landowner, a member of Farmers for Peace from Rapid City, SD.

STATEMENT OF MARVIN KAMMERER, LANDOWNER, MEMBER OF FARMERS FOR PEACE, RAPID CITY, SD

Mr. **Kammerer**. I would prefer to stand up since I do most of my work standing or riding in one form or another. It seems that I have trouble passing driver's tests, but I will sit down anyway.

My name is Marvin Kammerer. I am a resident of the area lying east of the Black Hills. From our ranch, we can view a long stretch of that beautiful country that changes colors with the atmospheric conditions. In sight of our place, 30 miles hence, in Bear Butte, a sacred mountain to the Indian people.

I live on a ranch. I raise—or did until we dried out last year—cattle, sheep, and kids, whatever order you want to put that in. We are still raising the kids. I have seven children, all of whom have reached the age of 18 except one, and I have eight grandchildren.

The land that I live on was squatted on by my grandfather in 1880. It is one of the few places left in western South Dakota where the original inhabitant or the one who got the patent still has a family on it.

My grandparents were peasant immigrants from Germany on my mother's side and my father's side. I am not Indian, but my affinity and feeling for the land is comparable to the Indian, I think.

You see, the land has sustained a grandfather in raising eight children there. My father raised 11, and I am finishing 7. It is not an easy existence. It is one where you treat the land with respect and accept what nature gives you with respect.

However, I still maintain my peasant instincts. I do not trust governments, as the Indian people as a whole do not trust tribal governments. It is unfortunate, but that is the nature of the game.

My grandfather, when my father took over the place, told my father, don't sell the land, and my father got the same commitment from me. That is not easy in these times when the banks want more security. We are paying the land off with a contract for deed. I have never felt, even when I get it paid off, that I will own it. The land owns me.

We must start looking on land and land ownership in a different light, that land is not a commodity. It is a resource. Our practices in agriculture have produced, I will grant you, what they call a surplus in agriculture now, but if everyone had a mouth full of food, maybe it wouldn't be. I will grant you that we have done extremely well, but I seriously question how long, in the long term, we can continue to mine the soil and still maintain national security. More than one civilization has gone down the tubes because it forgot or never learned respect for the land.

I am in favor of the return of the Black Hills to the Dakota people. It should be a national commitment to right a wrong, one of many wrongs, to say to then we are sorry and we will give you back your spiritual homeland.

I do not feel threatened by that. Many young men of Indian blood have died for this land. Some of South Dakota's best fighting men came from reservations. Some of them are still alive and suffering. They have given and given and given. With all due respect, I don't think you can find any people in this country who have given more.

It is high time that we repay them with respect and given them back the Black Hills area. That is a small thing to give.

At the same time, we must not forget our further commitments to the Indian people. I am well aware that 70 to 80 percent of the money funded for Indians doesn't get to Indians.

I would suggest that when this land is returned that the collection of tribes do make the decisions as to how to treat it and how to handle it. You see, in the Black Hills area now, it is a very, very significant place on the Earth. A lot of people are coming in there wanting to develop this or that for a fast buck. That is one thing we don't want to forget. When the snake oil salesman came to town, he had a product to sell you, but he was gone if it didn't work.

Consequently, those who want to enjoy the hills, in their development, are destroying what they came to see and touch.

We must have the moral courage to help heal this wound that really has international consequences, to return that segment of South Dakota to the Lakotas, to develop an awakening that the United States still stands for justice. We haven't had too many things like that lately, in my perception.

One thing I don't think most of you in Washington and most people probably in South Dakota and other places understand, and that is that every pebble that you walk on, every grain of sand, every piece of dirt has a spiritual significance. Every animal has a spiritual significance. Every bird that cames back in the spring when the meadowlark sings to me the first song of spring tells me that another season is at hand. When the grass grows sweet in the spring and the breezes blow across it, it tells me another season is at hand, a season of rebirth.

Let this be a season of rebirth for Congress and let it start becoming more aware and start understanding that significance, the spirituality of Mother Earth. The connection between that and the food you ate for lunch and the nourishment that women give to newborn babies—there is a connection, a connection that should make us humble, a connection, once we accept it and recognize our weaknesses, we become free in here.

I have heard some mention about water rights here today. I think it is a red herring. If you would read the treaty, you would see where the water rights properly lie. I have encouraged potential gubinatorial candidates and others in my State that one of the first priorities of those people when they are elected is to sit down with Indian people and see if they can't develop a dialog that if there is to be development of water rights, development of water potential in South Dakota, that what is done is done at the discretion of the Indian people. You see, there is an old Indian cultural thing that major decisions were not made and implemented until they thought seven generations down the road. This country could very well start looking into that concept of looking seven generations hence and maybe we wouldn't be in some of the messes we are in. That takes some work and some study.

I know that I am not in the majority in South Dakota, let alone western South Dakota which has some strange mentalities. There is racism there whether you want to admit it or not. A lot of them look on the Indian people as being rather not willing to work, undependable.

They don't know too much about Indian people. They have never walked in their moccasins. They have never come home from the service and found there were no jobs, especially around home where the reservations are. They haven't suffered the indignation of trying to write a check in a local grocery store and then have their integrity questioned to the ninth degree because of their color.

It is time that we practice what we preach. It is time that we institute what that lady whose renovation we celebrated a while back, that we implement what she really stands for with pride in ourselves as immigrant people who are dealing with native American people.

My grandfather didn't know about the 1868 Treaty. He was promised by the Government, and was out here illegally. The land was not given to homesteading until 1886, but he was there at the encouragement of the U.S. Government. He squatted, and I am still squatting. He did not understand that. He was told they were savages and pagans.

In my own acquaintance with Indian people, I have found them to be very intelligent, very feeling, and very human. They have some values that I could damn sure do well to build more into my own family and my own life, values that will make me a better persen.

But such is the way of progress. Sometimes it is slow. But the time is now. Don't worry about the congressional people who represent me from South Dakota. They will be very slow. They may be negative; they generally are in deals like this. Do what you have to do to make things right.

Although I am in the minority, it does not mean that I am wrong. I helped organized the Black Hills Alliance to further sensitize and inform the people of our area as to the potential dangers of people coming in with intentions to mine the areas in and around the Black Hills. The State government is not responsible enough to keep up with these boys as far as their exploration holes and other matters, and the companies were just having a field day.

We got it stopped, thankfully, although the lower price of uranium may have helped some. But it is people's action. And I am on the side of the minority in this issue, probably, but that makes me proud to have been asked by these people to be here.

I come here humbly asking you to seriously consider, this committee, and I encourage Congress to right a wrong so that we can proudly stand up and say finally, finally, justice is done.

If you have any questions, I will try to answer them. I must be back to South Dakota tonight, but there is no problem as long as I am there by 6:20, so you have all afternoon if you wish.

Mr. TAYLOR. Mr. Kammerer, I would have a question as to what your experience has been in going out and working with the non-Indian community in discussing this legislation and the other concerns and feelings that you have on this issue.

Mr. KAMMERER. I have strong feelings on the issue. One of the—you know, you talk to people and they agree. It really shouldn't be too big a problem, but there are powerful entities. You see, there is nothing much dearer to the old stockman's heart—if it is not free grass, it is cheap grass. There is a little larceny in most of these old boys. I don't care how big their hat is or how many dollars their boots cost.

There are organizations which get a lot of benefits out of leases in the Black Hills area. Some of them should be checked out by a congressional grand jury, and I can tell you some tales if you are really interested some time how this whole game goes on.

I am not too much concerned about that. I have defended that right of the Indian people to reclaim the Black Hills. Naturally, there are people who have fears because of misinformation. Our congressional people, I am sorry to say, haven't helped too much in that they haven't explained this potential bill or explained that there are possibilities, because they lack the moral guts. Maybe I or you, if we were in the same shoes, would be the same. I don't think I would, but I am not a politician and I am not running for office.

I would try to help sell the bill we have. I have been working in that direction trying to sensitize people to the issues. It does create some problems, but I am free, and I have always kind of enjoyed a good fight, even if it got a little dirty, because we are right.

We are right, and if there is one thing when I die—if I reach the age of my father who was 98 last Sunday with my great grandchildren coming in like my grandchildren are now—I can tell them that I did at least one thing, that I gave one small effort of myself to help right a wrong. I think I could die happy with thought and that they approved.

Mr. TAYLOR. I would just like to observe that this is the first hearing that has been held on this bill, and hearings are usually the way in which we begin to develop an understanding of legislation so that there can be the kind of dialog and communication that legislation of this nature really requires to bring about full comprehension and understanding and to dispel fear that people have.

So, this is a first step along the road.

Mr. KAMMERER. I would hope that sometime in the future you could come to the area, possibly a time or two, and feel out the issues. You are going to get some negative reaction. I will guarantee that, but you get old rusty wheels turning, and you work on the moral issue.

Mr. TAYLOR. I would make one other observation. I had a great uncle who settled up in the Rapid City area probably about the time your grandfather did.

Mr. KAMMERER. He had good taste.

Mr. TAYLOR. Yes; they did. They stayed in the area. They do not still have the original patent. I don't know whether they got there before 1886 or afterwards, but it was close to that time. So, I have been in the area, and I share many of your feelings about it.

Mr. KAMMERER. My grandfather worked on a freight train that came out from Fort Pierre. There were no railroads. That is how he got out there. My grandmother came over 2 years later and came up when the first train came up from Chadron, NE.

Mr. TAYLOR. Thank you very much.

Next, we will hear from William Means, executive director of the International Treaty Council from Rosebud, SD.

STATEMENT OF WILLIAM MEANS, EXECUTIVE DIRECTOR, INTERNATIONAL TREATY COUNCIL, ROSEBUD, SD

Mr. MEANS. Mr. Chairman, my name is William Means. I am the executive director of the International Indian Treaty Council which is the international arm of the American Indian movement. I come here today to present oral testimony as to the interests that many of our people have had in the years regarding the Black Hills and this bill.

First of all, as an international, non-governmental organization with official NGO status at the United Nations, we represent 98 Indian nations at the United Nations. We have testified since 1977 before the Commission on Human Rights of the United Nations on the conditions of Indian people not only here in the United States but throughout the western hemisphere.

On each and every occasion going before the Commission on Human Rights, the issue of the Black Hills has been presented on behalf of the Lakota Nation, because, internationally speaking, the Black Hills is no different in what is happening in the Black Hills and what is happening on the West Bank in Palestine. It is no different than what is happening in the carving up of various areas of land throughout the world after various world wars in which the culture and the tradition and the creation of nations of indigenous people have been overlooked, basically because of mineral wealth in almost each and every occasion.

First of all, you much understand a little more about the Black Hills in terms of their significance to our people. The Black Hills means as much to our people as the Vatican means to the Roman Catholic Church, or it means as much to our people as Jerusalem does to Moslems and Jews.

To offer us $105 million for our birthright, for the place we were created as a nation, is to insult our intelligence. You could not offer the Roman Catholic Church $105 million for the Vatican. You could not offer the Palestinians and the Jews $105 million for Jerusalem. They would think that you were totally crazy.

I would like to specifically mention as well the decision of *United States* v. *the Sioux Nation* of 1980 in which this money was imposed upon our people. This decision has legal significance because what happened in this decision is unprecedented anywhere in the history of American law.

In the *United States* v. *the Sioux Nation,* first of all, the courts identified the thief of the Black Hills in 1877 as the U.S. Congress. The second thing the court did was allow the thief to keep what he had stolen. The third thing the court did was allow the thief to determine the value of the land. The fourth thing they did was allow the thief to impose or attempt to impose that monetary judgment upon our people in exchange for the land.

As you can see—and before I go any further, I must comment the work of the steering committee, led by Gerald Clifford and Charlotte Black Elk. They have put together a unified effort that is unprecedented all the way going back to the battle of the Little Big Horn.

Today, we are on another type of battlefield, the battlefield of the halls of Congress. We accept that challenge with the same responsibility. We accept that challenge with the same tenacity, the same dedication as our grandfathers did at the Little Big Horn. We feel that, eventually, the same results will prevail in this new battlefield here in the Congress.

You must remember that this historical taking of the Black Hills has not stopped. As recently as 2 months ago, the U.S. Congress, this committee included, in what is called the White Earth Lands Settlement Act unilaterally stole about 100,000 acres from the White Earth Band of Chippewa Indians.

I use this example to show the continuing efforts by Congress to take Indian lands. It has not stopped.

I must bring up one other point about this case. This bill that stole these lands from the Chippewa people in northern Minnesota was passed by what they call suspension of the rules in the House. I bring this up because it is another case or rank and very detrimental action by the U.S. Congress. Under suspension of the rules, only eight Members of Congress were present out of 435 in which they voted to unilaterally take this land. So what cannot be taken by the courts is taken by Congress.

This is the recent history. This has not discontinued since 1877. Every time we come before an audience of non-Indians, they tell us how can we be responsible for the actions of our ancestors. So, I bring this example as a clear picture of the continuing efforts.

We are now engaged, as the American Indian movement, in a case called *William Means* v. *United States of America* in trying to get the right of the establishment of Yellow Thunder Camp in the Black Hills under existing Forest Service rules and regulations. We have been in court for 5 years. The Forest Service actually told the Federal judge in open court last week that they believe we have to start over in this legal proceeding because of the fact of some legal technicalities. Basically, what they are doing is stalling. The judge has already ruled that there will be the establishment of Yellow Thunder Camp within the national forest.

This does not take away from this bill. This once again points up the difficulty that Indian people have in dealing with the existing Federal authorities in the region in practicing our religion.

Right now, today, there is a sun dance in progress at Yellow Thunder Camp. Yellow Thunder Camp was a camp established on the national forest to provide a place for Indian people to worship within the Black Hills. To deny Indian people access and use of the Black Hills is a gross violation of human rights, and we are in the process of proving that in the Federal court.

Many times, we have heard that we must exercise our rights as Indian people here within the Congress of the United States. I will submit to you that it is one of the most difficult things in all of America for an Indian to come before the Congress of the United States and receive some type of bill that resolves a problem that exists in our region. Many of you staff people know that.

Most of the time, we get bills that are passed by Congress which establish more rules and regulations, which take away from the sovereignty of Indian people. Here, finally, we have legislation backed by almost a totally unified effort of the Lakota Nation, and we hope that we will have better luck this time with Congress than we have had in the past.

I myself have been through these halls of Congress as lately as 2 years ago. We tried to get the issue of Yellow Camp resolved by bringing a bill about here in Congress. Every time we came so far—we got 50 cosigners to this bill, by the way—every time we got to ask for specific hearings or we go to another stage in the development of this legislation, everyone told us it is now in court and once the court is over, we will be able to work with this bill.

What we see now is the opposite. We are coming to the Congress. Now, Congressmen who do not support this legislation are telling us this has to be resolved in the courts.

So, where does that put Mr. Indian?

Right now, there have been questions on S. 1453 regarding water rights jurisdiction, but you see it seems as though distinguished members of this important committee have forgotten their history. You have to recall, if you look at a map of the Missouri River, and then you take out a copy of the 1868 Fort Laramie Treaty, it says that the eastern boundary of the Great Sioux Reservation is the east bank of the Missouri River. When you look at the Missouri River as it exists today, you will see the Gavins Point Dam, Fort Randall Dam, Big Ben Dam, and Oahe Dam—all within the boundaries of the State of South Dakota and all in violation of the 1868 treaty.

So, you have to remember history, that it is the Lakota Nation that gave water rights to the U.S. Government. Yet, we are being questioned when we are only trying to recover. We are only trying to keep intact those water rights that the Federal Government now has under their control within their lands in the Black Hills.

On the issue of jurisdiction, several Senators question as to why the U.S. marshals should or should not be allowed to come onto this newly created land area and arrest people. Well, that in itself is a racist statement, because what you are saying there is that Indian people are incapable of enforcing our own laws. I think history will tell us that it is not the Indian people who are incapable of enforcing their own laws but the U.S. Congress.

So, to deal on the issue of jurisdiction, you must accept the fact that Indian people now have been out of the blanket for many years. We are now educated. We have the capability of training our people, and we have the capability and history of honor that would tell us that anyone who breaks the law will be dealt with in the proper manner.

The last thing I would like to say—and if Senator Abdnor were here, I would like to congratulate him—one of the best things he has ever done for Indian people was defeat William Janklow in the recent primary in the State of South Dakota. If we can go on that firm foundation and go from there and relate that new beginning to this bill, I think we stand on firm ground.

As it goes in South Dakota, if you support any type of Indian legislation or Indian issues, that is political suicide. All of us who are involved in politics know that to be true.

But you must remember the history of the civil rights struggle in this country. The Civil Rights Act that was passed, growing out of that massive struggle of sit-ins, marches, burnings, and finally the death of the honorable Martin Luther King—none of that legislation was authored in Alabama, was authored in Georgia or in the South. This legislation had to be drafted and put together by the majority of the U.S. citizens.

It has been our experience that any time the issues of Indian people are put forth to the majority of American people, they will stand behind what is right.

Indian people have never been afraid of the truth. We stand behind our treaty as the basis of why we are here today. We don't see this particular act, S. 1453, as the final resolution of United States-Sioux relations. We see it as only one small step in the direction of creating a new, lasting, and honorable relationship between the Lakota Nation and the United States of America.

You must remember, we come here as tribes, but when we sit together in this room, we are a nation of people. One must remember that.

In our dealings with the international community, the Black Hills has come up as a very detrimental facet of American treatment toward the Indian people. It has been listed by many human rights organizations throughout the world as a gross violation of human rights to deny people their sacred homelands.

The Black Hills, as I said, is our cathedral. The Black Hills is our church. You must remember that in considering this important bill, S. 1453, which I would like to go on record in representing the International Treaty Council in totally supporting this bill.

I would encourage the Members of Congress, members of this committee to consult with Indian people at every level so that the small corrections that must be made in this bill will have the input of the Indian people. You see, you have been denied the knowledge of Indian people. So, even to sit down and talk with the Indian for one of these Senators or one of their staff persons is a new experience. It is one experience that must be undertaken, the challenge that you must accept, to include Indian people in your deliberations so that when something is changed in this bill, all of us in this room can have at least some information before it is made a permanent change in the bill.

I must commend again Gerald Clifford and Charlotte Black Elk. I have seen them on the trail in many meetings where they have tried to bring this distinguished group of representatives you see here today together. I know how hard it is for them to pass out this information of changes, of particular wording, of problems that people have. So, if they can be consulted, we know and we have total faith in the Black Hills Steering Committee that they will communicate with us on any necessary changes.

Finally, I would like to say that many times when we come to Congress, every time that I have been here, the Congressmen say well, you Indians have to be united on these issues. Yet, we don't have a budget for the United States of America. Yet, we have Catholics, Episcopalian, and Lutherans. We have the United States and Russia on the verge of another arms race.

So, we can say emphatically and clearly to you as well that white people cannot expect us to create a unity that they have not created. I also submit to you that the United States of America will never have an honest and honorable foreign policy until they create an honest and honorable domestic policy.

Thank you very much.

Mr. **Taylor**. Thank you, Mr. Means.

I might just make an observation on the testimony, particularly in light of the White Earth legislation which I have worked on, that I respect differences of opinion on the effect of that bill. I think one of the problems with the bill is that it was not well understood in advance. I respect very much your recommedation that as changes are made in this legislation, the information should be widely disseminated.

I think there are vast differences in the White Earth situation as opposed to what we are talking about here, particularly in light of the individual fractionation of claims and legal title which had been in existence since around the turn of the century that potentially were being overturned. That is quite in contrast to what the Bradley bill proposes in the western part of South Dakota.

While I respect differences of opinion on it, I would hope that people would in fact read the debates on it, the hearings that we had, and the background. I thought I should make the comment in light of your statement.

Mr. MEANS. Yes; I only used the White Earth situation to show in spite of tribal council resolutions, in spite of land heirs organizations and resolutions opposing the bill—you know, this is Indian people who represent both U.S. interests as a tribal government as well as grassroots people all being opposed to the bill—yet, it passed.

So, what we have is many times imposition of legal remedies rather than consultation.

Mr. TAYLOR. I don't have any questions. Thank you very much.

Next, we will hear from Lionel Bordeauz, president of the Sinte Gleska College, Rosebud, SD.

He is not here? OK. His statement will be made a part of the record if he cares to submit it.

We will then hear from Alan Parker, president of the American Indian National Bank, Washington, DC. Since Alan was the first chief counsel of this committee and I used to work for him, I will feel free to refer to him by his first name.

STATEMENT OF ALAN PARKER, PRESIDENT, AMERICAN INDIAN NATIONAL BANK, WASHINGTON, DC

Mr. PARKER. Mr. Chairman, members of the committee, I appreciate the opportunity to present testimony before this committee. I have a prepared statement which has been made available to the staff of the committee, and I would like to submit that for the record. With your permission, Mr. Chairman, I will simply summarize and highlight the points that are made in the prepared statement.

Mr. TAYLOR. Very good. Your prepared statement will be made a part of the record.

Mr. PARKER. I would like to speak personally as an enrolled member of the Standing Rock Sioux Tribe to urge this committee to act fairly and justly on this legislation. I was also very honored to be asked by representatives of the Black Hills Steering Committee to serve as a member of an advisory committee on business and investment issues that are raised by this legislative proposal. Thus, my statement is in that individual capacity as a member of the Advisory Committee on Business and Investment.

I recognize that this legislative proposal deals with a great many issues having to do with the land and administration of the land, jurisdiction, water rights, et cetera. However, the focus of the advisory committee was exclusively on the question of administration of the judgment funds which have already been appropriated pursuant to a judgment of the Indian Claims Commission as upheld by the Supreme Court.

We acted on the assumption that as Congress considers this legislative proposal, there is no need to change the status of those funds since they have already been appropriated. Now, if an agreement is reached with the representatives of the Sioux Nation wherein those funds become part of a settlement involving the Black Hills, obviously that will be taken into consideration.

But we proceeded with the assumption that there has already been a judgment with respect to monetary compensation, and the kind of compensation that you are considering in this legislation deals with other issues. As I would understand it, they are primarily the cultural and religious rights of the Sioux Nation with respect to the Black Hills.

The advisory committee was very excited about the possibilities that are presented here and the opportunity to put to use a very considerable amount of money on behalf of the members of the Sioux Nation to improve their economic position and, at the same time, improve and enhance the economic position of the citizens of the State of South Dakota.

We took that point of departure because we examined the experience of the Penobscot and Passamaquoddy Tribes who were confronted with a similar opportunity in that Congress acted on a claim to set up a permanent trust fund and also authorize the use of the proceeds of part of the claim for business investment. So, you really have two different types of money; permanent trust fund, which I understand would be established under this legislation, and then you have the interest income that is generated by that permanent trust fund.

The possibility we considered is to be able to organize an investment program using that interest income to improve the economic position of the member bands of the Sioux Nation based on the experience of the Maine tribes. I would urge that the committee take a close look at what has happened up there because I think it is a very valuable and instructive experience. Basically, what they have done is to adopt a strategy of saying we are going to participate in the economy of the State of Maine because, even though we adhere to our cultural rights to exist as a tribe, we also exist within a local economy. If we are going to receive the best and full benefits from the use of these moneys, we feel we can best do that as participants in an overall economy.

From that perspective they have invested some of their trust funds or the funds that were appropriated in the settlement, in a variety of business enterprises that are not exclusively confined to their reservations. They take a perspective of saying this is the area in which we will operate, and that does not exclusively mean the reservation.

I believe using that strategy, the record will show that they have been very successful in their investments. They have bought a cement factory, a blueberry farm, a manufacturing facility, and they approach these investments from a strictly business point of view.

With that kind of an analysis in structuring business deals according to sound business principles, they have been successful investments. They have generated a return to the tribe. They have generated employment opportunities for tribal members, and they have generated business opportunities for tribal members by participating in a diversified way with these business enterprises.

I think if you take that same perspective and you look at what is possible in this situation with the Sioux Nation in the State of South Dakota, the possibilities are extremely exciting. For example, using as a rough figure the fact that there was $110 million appropriated in satisfaction of the judgment and, since that time, you have interest income of $45 to $50 million, you could create a permanent trust fund with that $110 million, and you already have an investment pool of approximately $45 to $50 million.

From that permanent trust fund, with any kind of sound management, you ought to be able to expect to yield between 8 and 10 percent even in a down cycle of interest rates such as we are experiencing in today's economy. That is, you can anticipate a stream of income conservatively estimated in the range of $10 million a year which then could also be applied to an investment and business development program to enhance the economic position of the Sioux Nation.

As the committee looked at various possibilities, we also felt that the research that was done to explore the major recommendation of the American Indian Policy Review Commission was a relevant comparison. This committee recently published a compendium of papers which describe how an Indian development bank could be created. I reference that committee print in our prepared statement.

This proposal, this research project, really represents the best thinking of a number of Indian economists and lawyers and business development specialists. I think you look at how an organization is designed and structured, it could be very instructive if you look at what could be done in this context.

Essentially, what is proposed would be a stock corporation that would have three principal functions—investment in businesses, extension in credit in the form of direct loans and loan guarantees to business ventures, and assistance in business development. That stock corporation could be created by the member tribes of the Sioux Nation where each member tribe would have a percentage of stock issued to them in relation to their per capita share in the overall judgment fund.

Obviously, the most popular tribe, the Oglala band, would perhaps have the largest percentage of stock, and so on down the order.

But this is beginning with a business principle that you have a judgment fund and you have a number of bands of the Sioux Nation who have a claim to a portion of that judgment fund. If you were to set up a stock corporation to manage the business investment and to manage the business development that is made possible by the generation of income from that judgment fund, then it makes sense to think in terms of each member band having a pro rata right of participation in that stock corporation.

Each member band then would be responsible for selecting its representatives to a board of directors. Those representatives would have the right to vote by proxy the shares that had been issued to that member band and also to sit on the board to oversee the development of this investment program, credit program, and the business development program.

Within the collection of papers that the committee recently published would be a more detailed description of how you could set up this kind of business organization. It incorporates the necessary principles of financial accountability and of sound business management to ensure that the corporation itself can be set up so that it is insulated from the nonbusiness types of influences that might arise.

The Investment and Business Advisory Committee that met to consider these questions really looked at two types of examples and said to itself that if you grant the assumptions that we started out with, there is a tremendous opportunity here to make use of those funds that have already been appropriated in such a way that the member bands of the Sioux Nation could really be a major economic force within the economy of South Dakota. Moreover, if you begin to extrapolate and see how you could put to use a permanent trust fund and an income stream from the trust fund in a business investment and development program, using very conservative estimates in terms of what you might be able to do with those kinds of moneys, you could project a financing capability in excess of $600 or $700 million.

I think if that kind of injection is made into the State of South Dakota on behalf of and as managed by the representatives of the Sioux Nation, that would be a very healthy and a very positive development. In fact, as you begin to focus on what might be possible in this part of the legislative proposal, I believe you would find a very powerful incentive to find solutions to the other more controversial political issues raised by this proposal. I believe you will find a basis of agreement among the various parties here because of the benefits that stand to be generated from the business and investment aspect of this proposal.

I believe as these ideas receive further consideration—and certainly they must be considered by the representatives of the Sioux Nation—we have, I think, a tremendous opportunity to bring people together and to move ahead with a solution that will bring justice to the members of the Sioux Nation and that will reflect well on this Government and that can be supported by South Dakota and the citizens of South Dakota.

Thank you very much.

[Prepared statement of Mr. Parker appears in the appendix.]

Mr. TAYLOR. Thank you, Mr. Parker.

I would observe on a point on which I think you would agree with me that the financial experience of the Penobscot and Passamaquoddy Tribes was limited just to the State of Maine. They have actually expanded out some. And that clearly would be the case under the proposal you are laying out here. In fact, some of the tribal members that are affected are from Nebraska and North Dakota and Montana, so I assume the economic impacts would spill over into those surrounding States as well.

The legislation itself does not particularly mandate this development corporation or bank that you are referring to. In your opinion, would there be any need to build any legislative mechanism in to accomplish the results that you are suggesting?

Mr. **Parker**. I think that the legislation could provide a general framework. I don't think the legislation needs to describe a business structure in any kind of detail but create a general framework and authority under which the representatives of the Sioux Nation then could organize the kind of business organization that we described in very sketchy terms here and which is described in more detail in the research papers.

I think to try to anticipate all the different options that might be available as you begin to actually organize something like this and to put into legislation probably doesn't make a lot of sense. I think you can address this issue in terms of that framework and basically lay down the rules which would govern the creation of this investment and business development program.

Of course, I would assume that the kind of legislative development would take place in coordination with the Indians themselves.

Mr. **Taylor**. I don't have any questions. We will look forward to reading your written presentation.

Mr. **Parker**. Thank you very much.

Mr. **Taylor**. Thank you very much.

Next, we will hear from Arnie Harlan, a tribal member of the Omaha Tribe of Nebraska from Macy, NE.

STATEMENT OF ARNIE HARLAN, TRIBAL MEMBER, OMAHA TRIBE OF NEBRASKA, MACY, NE

Mr. **Harlan**. Thank you and good afternoon.

I first of all want to say thank you for providing me the opportunity to come before the committee in support of S. 1453. My name is Lemuel Arnie Harlan, and I am a member of the Omaha Tribal Council. I come here as a friend in trying to show some symbol of unity that other tribes share out there and the effort that the Sioux Nation is taking in trying to recover land that rightfully belongs to them.

I have a very brief testimony here, but I would like to add a few things that aren't in my testimony that relate to sharing a feeling that many tribe shares. The Omaha Tribe is currently in litigation over a piece of property that is rightfully theirs through a treaty, yet we share the same feeling of knowing that the land that we know is ours and we have title to but weren't able to use in any religious, social, or economic way that we would like.

So, my being here at this time is to show that the Omaha people stand behind the Sioux Nation in its effort to regain what is rightfully theirs.

So, with this brief statement, I just wanted to thank everybody for the opportunity of being able to express this in front of this committee here at this time.

Thank you very much.

[Prepared statement of Mr. Harlan appears in the appendix.]

Mr. **Taylor**. Thank you very much.

Next we will hear from Mr. Reginald Bird Horse, vice chairman, Black Hills Sioux Nation Treaty Council, Fort Yates, ND.

STATEMENT OF REGINALD BIRD HORSE, VICE CHAIRMAN, BLACK HILLS SIOUX NATION TREATY COUNCIL, FORT YATES, ND

Mr. **Bird Horse**. Thank you.

I would like to thank the committee, the Senate select committee, for giving me a chance to testify here today, July 16. Previous speakers have all indicated as to support of the return of the question of the bill, S. 1453. I was hoping to see some Senators and other officials here representing the U.S. Government. I am not saying anybody here is in lack of authority but, like a previous speaker here said, he is going to speak to a tape recorder. I wanted to present my testimony, but it appears that I am going to have to read this.

Mr. **Taylor**. Well, you can present it if you wish. That is commonly done, and it will get the attention that all other statements in the record get.

Mr. **Bird Horse**. OK. That is the thing that I wanted to know—if it will get any attention.

Mr. **Taylor**. It certainly will. I would just like to observe also that in the morning session we had four Senators here at one time, and that is somewhat unusual. So, this has been a well-attended meeting.

Mr. **Bird Horse**. Thank you.

My name is Reginald Bird Horse. I am a descendant of a chief in his time that participated in these treaty makings. His name is Running Antelope. He is a Hunkpapa Band member. I am the fourth generation.

At the present time, in our own organization at home, I am the chairman of the Hunkpapa Treaty Council. I also represent the Black Hills Sioux Nation Treaty Council who are the grassroots people of the Lakota or Sioux Nation in the home area.

There are some people who would like to have been here from the Black Hills Sioux Nation Treaty Council, but these people wanted to come here to testify today. Unfortunately, the money situation is pretty tough. I don't think I need to explain that. I would like to mention the people who should have been here: Mr. Oliver Red Cloud, Garfield Grassrope, Matthew King, Maurice Wounded, Pete Fills the Pipe, Dan Defender, Simon Broken Leg, John Long, Tony Black Feather, Joseph Walker, Stanley Looking Horse, David Spotted Horse, Philomeme One Feather, Reginald Cedar Face, and Paul High Bear, among others.

They couldn't come. Some of them chipped in to get me here. I respectfully ask that you hold another hearing in Sioux country so that these committee people can hear these wonderful people who have the knowledge to give you the whole story. Then you would have the complete record on the Black Hills issue.

You would understand how we feel about the sacredness of these lands and why restoration is necessary. There are thousands of us who believe, as our ancestors before us believed, that the Paha Sapa, the Black Hills, are very holy. All the Black Hills is like a temple to us. There are certain places in the Black Hills like Wind

Cave and Mahto Tipi which the non-Indian identifies as the Devil's Tower, and others that are emergence sites for some of our people. There are numerous places where our sacred ceremonies and common ground are still being held.

We want to stress this point that the traditionals and elders want to stress the spiritual understanding with you because it is central to any bill that would restore the Black Hills aboriginal lands to our people.

Once again, my testimony to the Senate Select Committee on Indian Affairs pertaining to S. 1453 is here, and I would like to thank you for giving me the chance to say my piece here.

The Black Hills Sioux Nation Treaty Council, which I represent, is in full support of the land restoration to the Sioux Nation. Again, I say I think it would be in order if hearings can be held at the site where the land is in question which is the Black Hills.

With that, I would like to thank the chairman and members of the committee. You are representatives of a great country in this world. To Senator Bradley and Congressman Howard, we commend you. We thank you for this forum and participating in this historic hearing. We honor you on your initial steps to allow us, and we are prepared to spend a lifetime to this endeavor as did our ancestors to ensure a better life for your children.

Once again, it is a privilege for me to be here. Thank you.

[Prepared statement of Mr. Bird Horse appears in the appendix.]

Mr. TAYLOR. Mr. Bird Horse, I thank you for your testimony. I would like to simply observe for the record that I received a call yesterday from David Spotted Horse who asked me to particularly make a note that he was calling in support of your testimony.

Mr. BIRD HORSE. Thank you.

Mr. TAYLOR. Thank you very much.

Our next witness is Suzan Shown Harjo, executive director of the National Congress of American Indians, Washington, DC. Welcome to the committee.

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, DC

Ms. HARJO. Thank you. Thank you, Mr. Taylor, Mr. Vance, Mr. Doubrava, hard working staff, and advocates here on Capitol Hill.

It is my very great privilege to have been asked to present testimony here on this matter, particularly as my ancestors worked many years ago with the ancestors of the Sioux people here at the Battle of the Little Big Horn, and continue in religious and ceremonial affiliation to the present day.

Legislation to return the Black Hills has been a legislative priority of the National Congress of American Indians officially since 1983. This particular bill has been supported by the Affiliated Tribes of Northwest Indians, meeting in convention in 1985, and by the 129 Indian and Native governments voting at the 42d Annual NCAI Convention in Tulsa, OK, in October of 1985.

The National Congress of American Indians, as you know, is the oldest and largest national Indian organization. This legislation and the effort to return the Black Hills has the full support of our membership.

This matter brings out a very ugly aspect of public policymaking, most of which has been laid on this record and is not news to this committee. Indian dealings were nationalized in the U.S. Constitution and not left to the purview of the States. Often, Congress forgets this and permits Indian dealings to be addressed as a backyard matter of the Members whose States border the Indian territory involved, leaving the final outcome up to the border town mentality and racial bias that we cannot pretend does not exist in this day and age.

All of America, and subsequently much of the world, has benefited from the gold stolen from the Black Hills and have a share in the resultant deprivation and current situation, economy, and health of the Sioux people today. The first benefit to the American people was from what the Sioux gave to the United States for the benefit of its citizenry, vast territory, vast resources and riches, and the second benefit was from what was stolen. It is to no one's benefit to keep the Sioux people in their current condition.

It is a tribute to the tenacity of the traditional grass-roots people, some of whom are here today in spirit, who patiently worked and struggled to bring about this particular tommorrow and the happy result it portends. I wish you good luck as you work on this legislation, and I would like to echo what previous witnesses have put on the record, that it is important to involve all of the people who have a stake in this, particularly those who are today the evidence of the century of mourning for the loss of this holy place.

In our written statement, which I presume will be included in the record, we list a number of recent Indian land returns by Congressional and Executive action, many of which, some half of them, I have had the privilege of working on. In almost each instance, when these land claims were first advanced, as was the case of the Passamaquoddy and Penobscot claims, the backlash was fierce and vituperative, just as is the case whenever an Indian right is asserted anywhere.

Today, the fact that the Taos Pueblo have Taos Blue Lake and the Yakima people have Mount Adams is settled. The fact that the Passamaquoddy and Penobscot people have their lands in Maine and that Maine no longer has those lands, but has adopted a good neighbor approach with the new economic benefits brought to Maine by the Passamaquoddy Tribe and the Penobscot Nation, is also settled. It is quite a different story from a decade ago when it was said that the Republic would fail if the Passamaquoddy and Penobscot succeeded. The Republic still stands.

The Republic will also still stand when the Sioux Nation has what is rightfully theirs.

Thank your very much.

[Prepared statement of Ms. Harjo appears in the appendix.]

Mr. TAYLOR. Thank you, Ms. Harjo.

Our last witness for the day is Cindy Darcy, legislative advocate for the Friends Committee on National Legislation, Washington, DC.

STATEMENT OF CINDY DARCY, LEGISLATIVE ADVOCATE, FRIENDS COMMITTEE ON NATIONAL LEGISLATION, WASHINGTON, DC

Ms. **Darcy**. Good afternoon, Mr. Chairman. Thank you for the opportunity to testify today in support of S. 1453, the Sioux Nation Black Hills Act.

My name is Cindy Darcy, and I am legislative advocate on Indian Affairs for the Friends Committee on National Legislation which for more than 40 years now has brought before the U.S. Congress the concern of like-minded members of the Religious Society of Friends or Quakers.

I would like to state that my written testimony today is supported by 12 other religious organizations—among them the Episcopal Church, Unitarian Universalist Association, Clergy and Laity Concerned, the National Indian Lutheran Board, Bureau of Catholic Indian Missions, the American Friends Service Committee, and Jesuit Social Ministries.

We thank the committee for holding hearings today on this important legislation. Our thanks also go to Senator Bradley for his leadership on this issue.

Mr. Chairman, there is little that I can add to what others have said before me today, but let me say that it is our goal as religious organizations with both Indian and non-Indian congregations to seek peace and justice among all people. We add our support to S. 1453 because it seeks to bring about justice, to right a wrong, the illegal taking of lands protected by treaty in 1968.

The Sioux Nation Black Hills Act also draws upon philosophical and religious principles which we in the Judeo-Christian tradition identify with. We, too, like our Sioux brothers and sisters, recognize that all life is sacred and that all of creation is a gift from the Creator. We, too, look forward to a time when there is wholeness, justice, and interrelatedness among all that God had made.

In conclusion, as religious organizations, our strong support goes to S. 1453, the Sioux Nation Black Hills Act, legislation that has the strong support to the people it will affect, that encourages justice in the Federal Government's dealings with Indian tribes, and that would enhance and celebrate the identity as an Indian nation and Indian people by returning somthing precious and vital to them—lands in the Black Hills which, as they have so eloquently put it today, are the heart of everything that is.

Thank you.

[Prepared statement of Ms. Darcy appears in the appendix.]

Mr. **Taylor**. Thank you very much.

That concludes our panel of witnesses. I would like to say that the record will stay open an additional 2 weeks to receive any testimony that anyone may wish to submit. As we work in this legislation and others, I hope we can learn to use this peace pipe in its proper way.

Thank you all very much.

The hearing is adjourned.

[Whereupon, at 2:38 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF LLOYD MEEDS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS LLOYD MEEDS. I AM AN ATTORNEY AND PARTNER IN THE FIRM OF PRESTON, THORGRIMSON, ELLIS & HOLMAN. WE ARE WORKING WITH GERALD CLIFFORD, CHAIRMAN OF THE BLACK HILLS STEERING COMMITTEE TO SECURE THE PASSAGE OF THIS LEGISLATION.

FIRST, ALLOW ME TO COMMEND THE COMMITTEE FOR CONDUCTING THESE HEARINGS. THIS INFORMATION SEEKING PROCESS IS AN ABSOLUTE INGREDIENT TO LEGISLATION.

SECOND, MY COMMENDATION TO SENATOR BRADLEY FOR HIS SPONSORSHIP OF S. 1453. HIS BILL COMMENCES THE DIALOGUE -- AND HOPEFULLY PROVIDES A FRAMEWORK -- FOR THE RESOLUTION OF A LONG-STANDING NATIONAL INEQUITY.

MY OWN INVOLVEMENT IN THIS ISSUE BEGAN IN THE EARLY 70'S WHEN, AS CHAIRMAN OF THE INDIAN AFFAIRS COMMITTEE OF THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE, I SPONSORED LEGISLATION DEALING WITH SIOUX CLAIMS.

MR. CHAIRMAN, IT IS NOT MY INTENT TO ADDRESS THE HISTORY OF THIS SUBJECT. THAT HAS ALREADY BEEN DONE AND WILL BE DONE BY PERSONS MUCH BETTER QUALIFIED THAN I. IT IS BEYOND CAVIL THAT THE SIOUX WERE DEPRIVED OF THEIR HEARTLAND BY UNCONSCIONABLE AND UNCONSTITUTIONAL MEANS IN 1877.

THE SIOUX HAVE TRIED CONTINUOUSLY SINCE BEFORE THE TURN OF THE CENTURY TO REACQUIRE ALL OR PART OF THE GREAT SIOUX RESERVATION. THE SIOUX HAVE REFUSED TO ACCEPT MONETARY COMPENSATION FOR EXTINGUISHMENT OF THEIR RIGHTS IN THEIR LAND.

THE MAJOR QUESTION FACING THIS COMMITTEE IS NOT WHETHER -- BUT HOW -- THE SIOUX ARE TO BE COMPENSATED FOR THE ILLEGAL TAKING WHICH OCCURRED IN 1877.

THE TRADITIONAL METHOD HAS BEEN MONETARY COMPENSATION. I RESPECTFULLY SUGGEST THAT MONETARY COMPENSATION IS INADEQUATE IN THIS CIRCUMSTANCE FOR A NUMBER OF REASONS:

- THE NATURE OF THE ORIGINAL TAKING -- WHILE OUR HISTORY IS REPLETE WITH RECITALS OF DEALINGS WITH INDIAN PEOPLE WHICH WERE LESS THAN HONORABLE, NONE IS MORE EGREGIOUS THAN THE ADMINISTRATIVE AND CONGRESSIONAL ACTIONS IN 1877, WHICH RESULTED IN THE TAKING OF THE SIOUX LANDS.

- THE AREA COVERED BY S. 1453 IS OF TREMENDOUS RELIGIOUS SIGNIFICANCE TO THE SIOUX. IT IS, AS THEY SAY, "THE HEART OF EVERYTHING THAT IS." MONETARY COMPENSATION IS "WHOLLY INADEQUATE" MEASURE IN SUCH A CIRCUMSTANCE. THIS HAS BEEN RECOGNIZED BY THE CONGRESS ON SEVERAL PREVIOUS OCCASIONS SUCH AS THE TAOS BLUE LAKES LEGISLATION AND OTHERS.

- THE SIOUX HAVE TRIED CONTINUOUSLY SINCE BEFORE THE TURN OF THE CENTURY TO RECLAIM ALL OR PART OF THEIR LANDS. THEY HAVE BEEN DENIED A FORUM FOR CONSIDERATION OF THAT QUESTION.

- THE SIOUX HAVE STEADFASTLY REFUSED TO ACCEPT MONETARY COMPENSATION IN EXTINGUISHMENT OF THEIR RIGHT TO THE LAND. THIS IS NOT NOVEL. THE ALASKA NATIVES FOUGHT FOR -- AND WON -- THE RIGHT TO 44 MILLION ACRES AS PARTIAL COMPENSATION FOR THE EXTINGUISHMENT OF ABORIGINAL RIGHTS TO MUCH OF ALASKA.

- ALL OF LAND WHICH SIOUX SEEK UNDER THIS LEGISLATION IS PRESENTLY IN FEDERAL OWNERSHIP AND CAN BE RETURNED.

WHILE THE SIOUX HAVE ALWAYS SOUGHT RETURN OF THEIR LANDS THEIR DEMANDS HAVE NOT ALWAYS BEEN REALISTIC. LARGE PORTIONS OF SEVERAL STATES ORIGINALLY ENCOMPASSED UNDER THE GREAT SIOUX TREATY HAVE BEEN SOUGHT IN THE PAST. OBVIOUSLY THIS CANNOT BE ACCOMPLISHED. THIS BILL INCLUDES ONLY LANDS IN THE BLACK HILLS IN FEDERAL OWNERSHIP. CONSEQUENTLY, IT IS ATTAINABLE.

FINALLY, WHILE ALL THE SIOUX HAVE SOUGHT THE RETURN OF THEIR ANCESTRAL LANDS, NEVER BEFORE HAVE THE SIOUX SPOKEN WITH ONE VOICE. TO GET GET EIGHT SIOUX TRIBES TO AGREE ON ANYTHING IS A MAJOR ACCOMPLISHMENT. TO GET THEM TO AGREE ON _A_ SINGLE BILL DEALING WITH THE RETURN OF THEIR ANCESTRAL LANDS IS A MINOR MIRACLE.

A GREAT DEAL OF THE CREDIT FOR THIS UNANIMITY GOES TO REPRESENTATIVES OF THE EIGHT TRIBES WHOM YOU WILL HEAR TODAY. SPECIAL RECOGNITION MUST BE RESERVED FOR THE PATIENCE AND PERSEVERANCE OF GERALD CLIFFORD, COORDINATOR OF THE BLACK HILLS COORDINATING COMMITTEE.

FOR ALL THESE REASONS, AND MANY MORE WHICH YOU WILL HEAR TODAY, SERIOUS CONSIDERATION SHOULD BE GIVEN TO THE PASSAGE OF THIS LEGISLATION. I RECOGNIZE THIS IS JUST THE BEGINNING OF A LONG AND DIFFICULT LEGISLATIVE TRAIL, BUT PLEASE ACCEPT MY THANKS FOR BEGINNING THE JOURNEY.

PREPARED STATEMENT OF ALJOE AGARD

Mr. Chairman and members of the Committee, I am Aljoe Agard. I am a member of the Black Hills Steering Committee, and a member of the Standing Rock Sioux Tribal Council. We Sioux at Standing Rock are Hunkpapas, the Tribe of the great Chiefs Gall, Sitting Bull, and many others.

I am here today to talk about S.1453, the Sioux Nation Black Hills Act. I would like to thank Senator Bradley for introducing this bill. I would also like to thank Senator Andrews, Senator Burdick, Senator Abdnor, and the other members of the Senate Select Committee on Indian Affairs for agreeing to hold a hearing on this important bill.

S.1453 would restore part of the sacred Black Hills, the great Paha Sapa, to the Sioux Nation. It has been over a hundred years since the federal government broke faith with our people and illegally tried to take the Black Hills from us. After so long a time, complete justice cannot be done. We cannot turn back the clock. But this bill goes a long way in the right direction and we strongly support it. Even if the bill is not enacted this year, we will continue our fight for restoration of our sacred lands. We have not given up in a hundred years, and we will not give up now.

In 1868, the Sioux Nation made a Treaty with the United States. That Treaty recognized our right to the Black Hills and many other lands. Only the Sioux Nation was to have the right to occupy this land, or even to travel over it.

Members of the Committee, there were two things that caused the government to break the 1868 Treaty and deny our right to the Black Hills. These two things were gold and greed. Once many white men learned that there was gold in the Black Hills, they began to move in, driven by greed. At first, the United States Army made weak efforts to keep the greedy men out. But the pressure to disregard the Treaty became too strong. The government finally decided -- without telling the Sioux -- to stop protecting our rights to our land. The Army no longer stopped any prospector who wished to enter the Black Hills.

The Sioux tried to drive the prospectors out, and many times we were successful -- perhaps too successful. Our efforts to protect our land made the government angry. The government decided that we must give up our land. They tried everything -- negotiations, threats, and then fierce attacks by the Army. Nothing worked. We refused to sell our land -- how could we sell it? As Crazy Horse said, "One does not sell the earth upon which the people walk." And when General Custer tried to wipe us out, we defeated him in the great battle at Little Big Horn.

The government then decided to starve us into selling our land. They cut off all our rations, and sent a Commission to make an agreement with us. But the usual threats and bribes did not work. Under the 1868 Treaty, no agreement was valid unless it was approved by three/fourths of the adult male Sioux. Less than 10 percent of our men approved the agreement. Having totally failed to either fight us, bribe us, or starve us into selling our land, Congress then passed a law trying to take the Black Hills. But it is my firm belief, and the firm belief of the entire Sioux Nation, that these illegal acts did not succeed in tearing the sacred Paha Sapa away from us.

As the Committee knows, the United States Court of Claims has awarded the Sioux Nation $105 million as compensation for the Black Hills. We could have had this money and spent it years ago. Many of our people are very poor; many are unemployed. Many of them live in terrible, rundown houses, and do not have enough clothes or even enough food. Our individual Sioux people could certainly use this money. Our Tribal governments have had to cope with federal budget cuts and other severe economic problems -- they could use the money, too. But we will never accept a single cent of money for the Black Hills unless the federal government recognizes our right to the Black Hills land and restores to us as much of this land as possible.

S. 1453 would restore to the Sioux Nation most of the federal land in the Black Hills. It would allow us to keep sacred religious sites and wilderness areas for the exclusive use of the Sioux Nation. It would recognize and protect our water rights and our right to hunt and fish. It would give individual Sioux families the right to live on the restored lands. It would create a Sioux National Council that would govern and manage the restored lands. These provisions recognize the Sioux people as a great Nation, capable of governing their own affairs and caring for their own land. They also recognize that our right to the Black

Hills has never been extinguished, in spite of all the attempts to do so. We urge the Committee to approve this bill as soon as possible.

S. 1453 is a very fair bill. It is just as fair for white citizens as it is for the Sioux people. It does not disturb private land rights, and would allow white citizens to use and enjoy much of the parkland in the Black Hills. It would leave in place valid mineral leases, grazing permits, and timber leases. We have agreed to provisions like these because we do not wish to be unjust to anyone. We know that no one can right a wrong by doing even more wrong.

The United States is a great country, and our Sioux sons and daughters have proudly served it in times of war and times of peace. But in many of its past dealings with the Sioux Nation, the government was neither fair nor honorable. Treaties were broken, land stolen, our great leaders killed, our dignity and sovereignty diminished. S. 1453 gives all of us a great opportunity to put this sorry history behind us once and for all. Enactment of S. 1453 would be a proud achievement for both the United States and the Sioux Nation.

Thank you.

PREPARED STATEMENT
OF THE
STANDING ROCK SIOUX TRIBE
Before The
SELECT COMMITTEE ON INDIAN AFFAIRS

Senate Bill 1453

July 16, 1986

> "Here is the Standing Rock Reservation...And bear in mind: this is low land that has been laid down through millions of years. It is the most valuable land in the world outside of possibly the River Nile."
>
> CONGRESSMAN E.Y. BERRY
>
> March 19, 1956

Mr. Chairman, distinguished members of the Committee, Ladies and Gentlemen, all my relatives: My name is Phyllis Young. I am a member of the Standing Rock Sioux Tribe. Thank you for allowing me the privilege of speaking here today on behalf of the Standing Rock Sioux Tribe on this very historic occasion.

The Standing Rock Reservation is comprised of Indian people of Hunkpapa, Blackfeet, Upper Yanktonai and Cuthead Bands of the Lakota/Dakota, who have signed the Fort Laramie Treaty of April 29, 1868. This treaty was a Treaty of Peace and Friendship which determined the boundaries of the Sioux Nation and within these boundaries are the Black Hills, which have always been the religious center for our people.

Since the signing of the Fort Laramie Treaty, there have been legislative fiat, judicial and executive decisions affecting the ownership of the Black Hills, treaty rights and natural resources, including water rights of the Standing Rock Sioux Tribe.

The Standing Rock Sioux Reservation is only one part of the Great Sioux Nation and our bands traditionally served as the vanguard and ambassadors of Peace and Friendship to those outside our Circle.

In 1974, the Standing Rock Sioux Tribe hosted the First International Indian Treaty Conference to gain legal and political support for our cause and more importantly, to take our rightful place as people who possess the same rights afforded to every nation in the civilized world. Since that time, the most critical element, our own people, have become involved in the democratic process of addressing the Black Hills claim and the 1868 Treaty. This has been evident by tribal court actions, petitions to the Secretary of Interior, a tribal referendum, tribal resolutions, positions and statements from individuals, treaty councils and local communities. It has not been easy. There were no winners. There were no losers. However, it has been a very healthy 12 years on Standing Rock. There were many forums open at all times to those members who sought redress and who decided to participate and express themselves. In the twelve years that have passed, the Standing Rock Sioux Tribal Council has served as an example of the democratic process and how it works in Indian Country. We are proud of that. The result of the initiative 12 years ago and the previous 66 years, is that we are now on the doorstep of the Congress of the United States. There is no one on Standing Rock who disagrees that the Black Hills issue should be discussed at the congressional level. We are prepared to pursue this new beginning diligently and on a long-term basis.

The most critical issue facing the Standing Rock Sioux Tribe today deals with Section 6 of S. 1453: Water Rights. We are opposed to the wording of Section 6 as there is a lack of information about the hydrology in the area. The ecological importance of the land surrounding the area to be transferred is critical. However, we will leave the technical portion of that section to the staff.

The Sioux Nation sacrificed more land than any group in America for water development in the National interest. Standing Rock sacrificed 55,000 acres for the Oahe Dam. Article 12, which is the 3/4th clause, has never been exercised and it is the lack of exercise of Article 12 that has prevented the Sioux from participating in our own destiny. The Federal agencies involved in the Pick-Sloan Program have never acknowledged the legal provisions of the 1868 Treaty and the Winters Doctrine. The Standing Rock Sioux Tribe should be guaranteed the enforcement of its Winters rights and no further encroachment upon those rights. Compensation is also sought from the U.S. for the violation of the Tribe's rights to the extent they have occurred. The Standing Rock Sioux Tribe's Analysis of Economic Loss resulting from the lands taken from the Standing Rock Sioux Tribe for the Oahe Dam is in the amount of $441,467,389. The Oahe Dam destroyed more Indian land than any other public works project in America.

Members of the Standing Rock Sioux Tribe have participated in legal actions to save sacred lands in the Black Hills, specifically CIV. 80-3045 in the U.S. District Court of South Dakota, at

Craven Canyon. Union Carbide had intended to remove 5,400 tons of uranium and to destroy some ancient pictographs we sought to preserve. Craven Canyon is sacred and vital to our people and the rock art sites have been interpreted by the traditional people, including Mr. David Spotted Horse from Standing Rock. Although Craven Canyon has special and exceptional historic and archeological significance, it is not listed as a national historic site, and therefore, there was no law to protect and preserve it. This lawsuit so far has done this. Expert testimony additionally made the point that "there is no threshold for biological damage by radiation and there is no safe amount of radiation to which a person can be exposed." This is in regard to the removal and mining of uranium in the Black Hills. This is why S. 1453 is so critical not only to the Lakota/Dakota people and not only to the citizens of South Dakota, but to the total ecosystem.

Attached is an historical summary of the Standing Rock Reservation. For the record, we are also submitting several volumes of legal, legislative and tribal documentation in regard to the 1868 Treaty and the Black Hills.

The Lakota/Dakota people live within the No. 1 strategic and restricted area, which is the largest military reservation in the Nuclear War Zone in the United States. It is imperative with the U.S. ratification of the Convention on the prevention and Punishment of the Crime of Genocide on February 19, 1986, that remedies be found for the promotion and protection of our inherent rights to the land and water, especially the area in Senate bill 1453.

The Standing Rock Sioux Tribe and its membership desire to live in peace and freedom from the dangers of nuclear war, to participate in the economic development of our own resources and to preserve a healthy environment for those living around us. Our ancestors allowed other people to come to this land to live in peace and to prosper. We respectfully request that we be accorded the dignity to do likewise.

Mr. Chairman, members of the Committee, you are representative of the greatest country in the world. You ancestors, who were great men, sought to deal with the Sioux Nation on the highest level: through treaties. You are the only country in the world who gave such status to your indigenous peoples. We recognize that.

To Senator Bradley and Congressman Howard, we commend you. We thank you for according the Standing Rock Sioux Tribe this forum to participate in this historic hearing. We honor you on your initial step to allow the Sioux Nation freedom of expression. We look forward to a new beginning to determine FREELY our political status and our economic, social and cultural development. We are prepared to spend a lifetime to this endeavor as did our ancestors to ensure a better life for our children. We urge the enactment of S. 1453 and seek a better and brighter future by negotiating with the U.S. Congress through this instrument.

Thank You.

STANDING ROCK SIOUX
OF NORTH AND SOUTH DAKOTA
Historical Summary

The federal relationship with the Standing Rock Sioux began, as with the other Sioux Tribes, in 1805, when many Sioux ceded some of their land in Minnesota. They would be party to a number of treaties between 1805 and 1868. They signed 33 treaties that affected them specifically and other nations as well.

In July 16, 1825 (14 Stat, 739) the Hunkpapa Band signed a treaty that basically called for peace and friendship. On October 28, 1865 (14 Stat, 743) Yanktonai Band signed a treaty that basically for peace and friendship.

In 1851 a treaty was signed at Fort Laramie. This treaty outlined the boundaries for the Sioux Nation.

During the Civil War, relations with the Sioux were at a low. Federal troops had been removed from the areas around the Sioux Country and the treaty annuities were late in coming. With this, and other problems, they felt that the authority of the United States had passed.

With the end of the war, the United States attempted to reestablish its power over the Sioux Nation. With this, they concluded a number of small treaties with the bands, with the Hunkpapa Band, this was completed by the Treaty of October 20, 1865. Again, this was basically a treaty for peace and friendship.

The final treaty with the Sioux was the Treaty of April 29, 1868. This treaty created the Great Sioux Reservation.

Revisions were made to the Sioux land base by the Executive Orders of January 11, 1875; March 16, 1875; and November 28, 1876.

The Executive Order of August 9, 1879 restored all lands set up by the Orders of March 16, 1875 and November 28, 1876.

With the discovery of gold in the Black Hills in 1874 and climaxing with the invasion in 1876, the Sioux were again asked to cede lands.

They still maintain that this was an illegal taking. With the coming of statehood for North and South Dakota, the Territorial Government requested that additional lands be opened for settlement. By the Act of March 2, 1889, these lands were named. Also, separate Reservations were set up for the Tribes. Section 3 of the act set forth the lands to be used by the members of the Standing Rock Tribe. This agreement was made and proclaimed on February 10, 1890.

Surplus unalloted land was opened to settlement by the Act of May 29, 1908 and proclaimed by President Taft on August 19, 1909 as amended by the Act of February 17, 1910. Additional lands were opened by the Act of Febraury 14, 1913 and proclaimed by President Woodrow Wilson on March 18, 1915.

Bills for the relief of these settlers were passed on March 26, 1910. Section 4 affected settlers on Standing Rock. Additional acts were passed on May 28, 1914 and July 11, 1940.

Six special acts were passed to aid these settlers. They were passed in 1912, 1921, 1925, 1928, and 1931. Basically, these acts gave the settlers more time to prove themselves and in many cases time extensions were made on their land payments.

Trust status for allotted land was assured by two executive orders. These were passed in 1931 and 1932 and were under the authority of the Act of June 21, 1906. By 1934, wih the implementation of the Reorganization Act, the trust periods on the Standing Rock were supposed to be insured forever.

The program of restoring lands began in 1936 and has continued to date. So far, there have been three orders to restore or add land to the Reservation. They were enacted in the years 1936, 1938 and 1975.

Starting in the early 1940's, programs for water development for the Missouri Basin area were discussed in Congress. By the fall of 1950, Congress had authorized (by Public Law 870) to start negotiations for Indian lands and rights within the Standing Rock Reservation. In 1952, Public Law 870 was amended for additional time for the negotiation of contracts that would take land.

By the Act of September 2, 1958, (P.L. 85-915 55,000 acres) certain lands were removed from the Reservation and used for the dam project.

Reservation land was conveyed by Congressional action twice. This was the land on which Chief Sitting Bull was originally buried, to be conveyed to the State of North Dakota for a state historical site.

In 1956, land was conveyed to the Mathew American Horse, American Legion Post at Cannonball, North Dakota for the use of a monument to homor American war heroes.

Public Law 483 allowed the Tribe and members of the Standing Rock Sioux Tribe to exchange lands.

These lands were to be issued trust patents with the same effect as trust patents issued under the Act of February 8, 1887.

Additional lands were returned to trust by the Acts of September 8, 1959 and October 30, 1969.

From the Treaty of 1851 and Act of June 17, 1980, the land base of the Standing Rock Sioux Tribe and its members has been affected by over 40 specific laws.

RESOLUTION NO. 232-85

WHEREAS, the Standing Rock Sioux Tribal Council is a federally recognized and/or organized tribe who is a successor in interest to the sovereign and independent bands of the Sioux Nation who separately entered into the multi-lateral Treaty of April 29, 1868 with their chiefs and headmen acting as ministers, and;

WHEREAS, the Black Hills are the sacred center of aboriginal territory of the Sioux Nation and as such hold deep religious significance for the Sioux Nation and are central and indispensible to the free exercise of the Sioux religion, and;

WHEREAS, the Black Hills are within Sioux treaty territory, as affirmed by the Treaties of September 15, 1851, (11 Stat. 749) and April 29, 1868, (15 Stat. 635), and;

WHEREAS, the Standing Rock Sioux Tribal Council, as an integral part of the Sioux Nation, view the Black Hills as inalienable and have never voluntarily surrendered or ceded the Black Hills, and have resolved not to accept money in exchange for extinguishment of title to such lands and for extinguishment of the right to practice traditional religion in the Black Hills area, and;

WHEREAS, the Sioux Nation never have been accorded a forum within which to seek the return of lands, and;

WHEREAS, the Sioux Nation has pressed its claim to the Black Hills vigorously and continuously for more than one hundred years, and;

WHEREAS, it will further the interests of the United States to enter into a just and honorable Sioux Nation Black Hills lands settlement, recognizing and reaffirming its domestic and international commitments to Sioux Nation self-determination, economic security and religious freedom, and acknowledgling the traditional and historical belief of the Sioux in the sacred character of the Earth and in the Black Hills in particular, as well as their rights to freely exercise such beliefs, and;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribal Council shall, and hereby does, approve the final draft of the "Sioux Nation Black Hills Act", as transmitted by the Black Hills Steering Committee, and authorizes the transmittal for introduction in the Congress of the United States.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council be authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribal Council, hereby certify that the Tribal Council is composed of 15 members, of whom 14 constituting a quorum were present at a meeting thereof, convened, and held on the 2nd day of May, 1985. That the foregoing resolution was duly adopted by an affirmative vote of 10 members, with 0 opposing, and with 4 not voting. The Chairman's vote is not required except in the case of a tie.

RESOLUTION NO. 232-85
Page Two

Dated this 6th day of May, 19 85.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribal Council

ATTEST:

Elaine Brave Bull, Secretary
Standing Rock Sioux Tribal Council

(Official Seal)

Prepared Statement of

Leland Spotted Bird, Chairman,
Sioux Council of the Ft. Peck Reservation, Poplar, Montana
and
Member of the Black Hills Steering Committee

Honorable Chairman, thank you for providing this opportunity for us to address you on this very important Bill, S. 1453.

The history of the Black Hills issue begins in 1851 at Ft. Laramie in Wyoming where the Tribes of Montana and Dakota Territory, and the United States started Treaty negotiations. Out of this "Great Council", territories were assigned, and Sioux Territory comprised most of Dakota Territory. Later the Sioux signed another treaty in 1868 creating the "Greater Sioux Reservation" in the Dakotas.

With the discovery of gold in the Black Hills and the gold fields in Montana, railroads and settlers wanted access through tribal territories. It was at the cost of war and treaty violations by the United States. It was conflict over 1868 treaty violations that percipitated the wars surrounding the "Battle of the Little Bighorn" in 1876 which sent Tetons and other bands of Sioux into Montana Territory.

The Fort Peck Reservation was created in the aftermath of those wars. For the Sioux bands of the Fort Peck Reservation it was the beginning of a new history and life, but one we did not willfully choose.

Today many of the Sioux that live on the Fort Peck Reservation had forefathers who did reside in the "Great Sioux Reservation" of the Dakota Territory, and did not support the sale of the Black Hills.

On June 8, 1984, the Fort Peck Sioux Council went on record to join with the other tribes of the Great Sioux Nation, in a unified effort, to retain lands in the Black Hills of South Dakota. We, the delegation from Fort Peck, submit this resolution No. 8-84-6, as support for Senate Bill 1453, the Sioux Nation Black Hills Act.

We urge the Congress to support and enact the Sioux Nation Black Hills Act.

Respectfully Submitted,

Leland Spotted Bird, Chairman,
Ft. Peck Sioux Council
July 16, 1986

SIOUX COUNCIL RESOLUTION #8-84-6

WHEREAS; the Fort Peck Tribe's Sioux Council of the Fort Peck Reservation is a recognized body of people called to act officially in all business matters affecting their relationship with the Government of the United States, and

WHEREAS; the Fort Peck Sioux Tribe desires to join with other organized tribes which are successors in interest to the sovereign bands of the Great Sioux Nation, namely:

Cheyenne River Sioux Tribe
Standing Rock Sioux Tribe
Oglala Sioux Tribe
Rosebud Sioux Tribe
Santee Sioux Tribe
Crow Creek Sioux Tribe
Lower Brule Sioux Tribe

THEREFORE BE IT RESOLVED; the Fort Peck Reservation Sioux Council does hereby approve and support the coordinated assertion by the member tribes of their claims to retain lands in the Black Hills and refuse compensation for the extinquishment of title to such lands in the Black Hills.

BE IT FURTHER RESOLVED; the Fort Peck Reservation Sioux Council hereby states it's membership in the Black Hills Steering Committee and endorses the purposes of such Black Hills Steering Committee.

BE IT FURTHER RESOLVED; that all prior actions taken by the Fort Peck Sioux Council concerning the Black Hills Dockets 74 and 74B is hereby rescinded.

CERTIFICATION

I, the undersigned Secretary of the Sioux Council of the Fort Peck Reservation hereby certify that the foregoing resolution was adopted by 21 vote for, 0 opposed at a meeting held at the Tribal Cultural Center, Poplar, Montana on June 8, 1984.

Catherine Spotted Bird
Catherine Spotted/Bird, Secretary
Fort Peck Sioux Council

STATE OF MONTANA
COUNTY OF ROOSEVELT } ss.
I hereby certify that the above and foregoing is a full, true and correct copy of the original Res. #8-84-6
now on file in the office of the Clerk of Fort Peck Tribal Court.
Witness my hand and seal of the Court this 13
day of Sept. A.D. 19 84
Myrna Forst
CLERK of FORT PECK TRIBAL COURT
Fort Peck Reservation in Montana, Poplar, Mont.

APPROVED:

Emmett Buckles
Emmett Buckles, Acting Chairman
Fort Peck Sioux Council

Superintendent, Fort Peck Agency

PREPARED STATEMENT OF KEITH JEWETT

My name is Keith Jewett, and I am the Tribal representative from the Cheyenne River Sioux Tribe and I appreciate this opportunity to present testimony in support of the Sioux Nation Black Hills Act S.1453 to the Senate Select Committee on Indian Affairs.

The Miniconjou, Two Kettle, Sans Arcs and Blackfeet bands signed the 1868 Fort Laramie Treaty. These bands of the Sioux Nation presently reside on the Cheyenne River Sioux Tribe's Reservation.

We are here, today, to urge you to approve this very important legislation, report it favorably out of committee and vote for its adoption. The Cheyenne River Sioux Tribe of South Dakota has participated in the unified tribal effort for developing a legislative proposal and pursuing the return of lands in the Black Hills to the Sioux Nation.

The Sioux Nation-Black Hills Act was developed over a two and one half year period. Careful attention was given to articulating and incorporating Sioux philosophical principles into the legislation. We held consultations with representatives of the Black Hills community to insure that their concerns were respected in the legislation. You will find that the Sioux Nation Black Hills Act is tightly drafted, is fair, and most importantly it provides the United States of America with an avenue for correcting what has been a blemish on the record of the Congress for more than 109 years.

Mr. Chairman, we are a reasonable and fair people who believe in the principles of freedom of religion, the right to own property and have that right protected by the laws of this great nation, and we believe in justice. When we started our efforts we were told by our elders and spiritual leaders that this work was necessary, because the Black Hills is the core of our existence. They said, "even if there is only one just man in the entire world and you must walk the entire earth to find that one man - then that is what you must do, for generations yet unborn depend upon you to protect the Heart of Everything That Is". We are here today, because we believe that there must be more than one just man in the world and we hope there are many in Congress.

The Black Hills is not just another local Indian issue, the Black Hills taking has been cited by the courts as "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in the history of our nation". It was the Congress of the United States that took the Black Hills and it is the Congress that can now return the Black Hills to the Sioux Nation. What we are asking for in S.1453 is fair and we think it is time for Congress to take the courageous step of writing that chapter of honor in the history of the United States' dealings with the Sioux Nation. My tribe is a chartering tribe of the Black Hills Steering Committed.

I have attached resolutions of the Cheyenne River Sioux Tribal Council regarding our position for seeking land return and supporting the Sioux Nation Black Hills Act. You will find that we are strong in our position of not accepting monies for the Black Hills and we will not sell our right to practice traditional religion in this most sacred of all lands. I hope you will look at this issue carefully and know that we are fair and reasonable people who have come here today seeking justice and resolution to an injustice committed against our people.

THE 1868 FORT LARAMIE TREATY PROVIDED AS FOLLOWS:

TREATY WITH THE SIOUX - BRULE, OGLALA, MINICONJOU, YANKTONAI, HUNKPAPA, BLACKFEET, CUTHEAD, TWO KETTLE, SANS ARCS, AND SANTEE - AND ARAPAHOE, 1868.

Articles of a treaty made and concluded by and between Lieutenant General William T. Sherman, General William S. Harney, General Alfred H. Terry, General C. C. Augur, J. B. Henderson, Nathaniel G. Taylor, John B. Sanborn, and Samuel F. Tappan, duly appointed commissioners on the part of the United States and the different bands of the Sioux Nation of Indians, by their chiefs and head men, whose names are hereto subscribed, they being duly authorized to act in the premises.

ARTICLE 1.

> From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace,

and they now pledge their honor to maintain it.
If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States, and at peace therewith, the Indians herein named solemnly agree that they will, upon proof made to their agent and notice by him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws; and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as in his judgment may be proper. But no one sustaining loss while violating the provisions of this treaty or the laws of the United States shall be re-imbursed therefor.

ARTICLE 2.

The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the one hundred and fourth degree of longitude west from Greenwich, thence north on said meridian to a point where the forty-sixth parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations on the east bank of said river shall be, and the same is set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents, and employees of the

Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

ARTICLE 3.

If it should appear from actual survey or other satisfactory examination of said tract of land that it contains less than one hundred and sixty acres of tillable land for each person who at the time, may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to commence cultivating the soil as farmers, the United States agrees to set apart, for the use of said Indians, as herein provided, such additional quantity of arable land, adjoining to said reservation, or as near to the same as it can be obtained, as may be required to provide the necessary amount.

ARTICLE 4.

The United States agrees, at its own proper expense, to construct at some place on the Missouri River, near the center of said reservation, where timber and water may be convenient, the following buildings, to wit: a warehouse, a store-room for the use of the agent in storing goods belonging to the Indians, to cost not less than twenty-five hundred dollars; an agency building for the residence of the agent, to cost not exceeding three thousand dollars; a residence for the physician, to cost not more than three thousand dollars; and five other buildings, for a carpenter, farmer, blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars; also a school-house or mission-building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

The United States agrees further to cause to be erected on said reservation, near the other buildings herein authorized, a good steam circular saw mill, with a grist mill and shingle-machine attached to the same, to cost not exceeding eight thousand dollars.

ARTICLE 5.

The United States agrees that the agent for said

Indians shall in the future make his home at the agency building; that he shall reside among them, and keep an office open at all times for the purpose of prompt and dligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on him by law. In all cases of depredation on person or property he shall cause the evidence to be taken in writing and forwarded, together whith his findings, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

ARTICLE 6.

If any individual belonging to said tribes of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding three hundred and twenty acres in extent, which tract, when so selected, certified, and recorded in the "land book," as herein directed, shall cease to be held in common, but the same may be occupied and held in the exclusive possession of the person selecting it, and of his family, so long as he or they may continue to cultivate it.

Any person over eighteen years of age, not being the head of a family, may in like manner select and cause to be certified to him or her, for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above directed.

For each tract of land so selected a certificate, containing a description thereof and the name of the person selecting it, with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it, by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Sioux Land Book."

The President may, at any time, order a survey of the reservation, and, when so surveyed, Congress shall provide for protecting the rights of said settlers in their improvements, and may fix the character of the title held by each. The United States may pass such laws on the subject of alienation and descent of property between the Indians and their descendants as may be thought proper. And it is further stipulated that any male Indians, over eighteen years of age, of any band or tribe that is or shall hereafter become a party to this treaty, who now is or who shall hereafter become a president or occupant of any reservation or Territory not included in the tract of country designated and described in this treaty for the permanent home of the Indians, which is not mineral land, nor reserved by the United States for special purposes other than Indian occupation, and who shall have made improvements thereon of the value of two hundred dollars or more, and continuously occupied the same as a homestead for the term of three years, shll be entitled to receive from the United States a patent for one hundred and sixty acres of land including his said improvements, the same to be in the form of the legal subdivision of the surveys of the public lands. Upon application in writing, sutained by the proof of two disinterested witnesses made to the register of the local land-office when the land sought to be entered is within a land district, and when the tract sought to be entered is not in any land district, then upon said application and proof being made to the Commissioner of the General Land Office, and the right of such Indian or Indians to enter such tract or tracts of land shall accrue and be perfect from the date of his first improvments thereon, and shall continue as long as he continues his residence and improvements, and no longer. And any Indian or Indians receiving a patent for land under the foregoing provisions, shall thereby and from thenceforth become and be a citizen of the United States, and be entitled to all the privileges and immunities of such citizens, and shall, at the same time, retain all his rights to benefits accruing to Indians under this treaty.

ARTICLE 7.

In order to insure the civilization of the Indians entering into this treaty, the necessity of education is admitted, especially of such of them as are or may be settled on said agricultural reservations, and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly compled with; and the United States agrees that for every thirty children between said ages who can be induced or compelled to attend school, a house shall be provided and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher. The provisions of this article to continue for not less than twenty years.

ARTICLE 8.

When the heard of a family or lodge shall have selected lands and received his certificate as above directed, and the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid, not exceeding in value twenty-five dollars.

And it is further stipulated that such persons as commence farming shall receive instruction from the farmer herein provided for, and whenever more than one hundred persons shall enter upon the cultivation of the soil, a second blacksmith shall be provided, with such iron, steel, and other material as may be needed.

ARTICLE 9.

At any time after ten years from the making of this treaty, the United States shall have the privilege of withdrawing the physician, farmer, blacksmith, carpenter, engineer, and miller herein provided for, but in case of such withdrawal, an additional sum thereafter of ten thousand dollars per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall upon careful inquiry into their condition, make such rules and regulations for the expenditure of said sum as will best promote the educational and moral improvement of said tribes.

ARTICLE 10.

In lieu of all sums of money or other annuities provided to be paid to the Indians herein named, under any treaty or treaties heretofore made, the United States agrees to deliver at the agency-house on the reservation herein named, on or before the first day of August of each year, for thirty years, the following articles, to wit:

For each male person over fourteen years of age, a suit of good substantial woolen clothing, consisting of coat, pantaloons, flannel shirt, hat, and a pair of home-made socks.

For each female over twelve years of age, a flannel skirt, or the goods necessary to make it, a pair of woolen hose, twelve yards of calico, ard twelve yards of cotton domestics.

For the boys and girls under the ages named, such flannel and cotton goods as may be needed to make each a suit as aforesaid, together with a pair of woolen hose for each.

And in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent each year to forward to him a full and exact census of the Indians, on which the estimate from year to year can be based.

And in addition to the clothing herein named, the sum of ten dollars for each person entitled to the beneficial effects of this treaty shall be annually appropriated for a period of thirty years, while such persons roam and hunt, and twenty dollars for each person who engages in farming, to be used by the Secretary of the Interior in the purchase of such articles as from time to time the condition and necessities of the Indians may indicate to be proper. And if within the thirty years, at any time, it shall appear that the amount of money needed for clothing under this article can be appropriated to better uses for the Indians named herein, Congress may, by law, change the appropriation to other purposes; but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named. And the President shall annually detail an officer of the Army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery. And it is hereby expressly stipulated that each Indian over the age of four years, who shall have removed to and settled permanently upon said reservation and complied with the stipulations of this treaty, shall be entitled to receive from the United States, for the period of four years after he shall have settled upon said reservation, one pound of meat and one pound of flour per day, provided the Indians cannot furnish their own subsistence at an earlier date. And it is further stipulated that the United States will furnish and deliver to each lodge of Indians or family of persons legally incorporated with them, who shall remove to the reservation herein described and commence farming, one good American cow, and one good well broken pair of American oxen within sixty days after such lodge or family shall have so settled upon said reservation.

ARTICLE 11.

In consideration of the advantages and benefits conferred by this treaty, and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside their reservation as herein defined, but yet reserve the right to hunt on any lands north of North Platte, and on the Republican Fork of the Smoky Hill River, so long as the buffalo may range thereon in such manners as to justify the chase. And they, the said Indians, further expressly agree:

1st. That they will withdraw all opposition to the construction of the railroads now being built on the plains.

2d. That they will permit the peaceful construction of any railroad not passing over their reservation as herein defined.

3d. That they will not attack any persons at home, or travelling, nor molest or disturb any wagon trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

4th. They will never capture, or carry off from the settlements, white women or children.

5th. They will never kill or scalp white men, nor attemopt to do them harm.

6th. They withdraw al pretence of opposition to the construction of the railroad now being built along the Platte River and westward to the Pacific Ocean, and they will not in future object to the construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head-man of the tribe.

7th. They agree to withdraw all opposition to the military posts or roads now established south of the North Platte River, or that may be established, not in violation of treaties heretofore made or hereafter to be made with any of the Indian tribes.

ARTICLE 12.

No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians, occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him, as provided in Article 6 of this treaty.

ARTICLE 13.

The United States hereby agrees to furnish annually to the Indians, the physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

ARTICLE 14.

It is agreed that the sum of five hundred dollars annually, for three years from date, shall be expended in presents to the ten persons of said tribe who in the judgment of the agent may grow the most valuable crops for the respective year.

ARTICLE 15.

The Indians herein named agree that when the agency-house or other buildings shall be constructed on the reservation named, they will regard said reservation their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right, subject to the conditions and modifications of this treaty, to hunt, as stipulated in Article 11 hereof.

ARTICLE 16.

The United States hereby agrees and stipulates that the country north of the North Platte River and east of the summits of the Big Horn Mountains shall be held and considered to be unceded Indian territory, and also stipulates and agrees that no white person or persons shall be permitted to settle upon or occupy any portion of the same; or without the consent of the Indians first had and obtained, to pass through the same; and it is further agreed by the United States that within ninety days after the conclusion of peace with all the bands of the Sioux Nation, the military posts now established in the territory in this article named shall be abandoned, and that the road leading to them and by them to the settlements in the Territory of Montana shall be closed.

ARTICLE 17.

> It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect, and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further.
>
> In testimony of all which, we, the said commissioners, and we, the chiefs and headmen of the Brule band of the Sioux Nation, have hereunto set our hands and seals at Fort Laramie, Dakota Territory, this twenty-ninth day of April, in the year one thousand eight hundred and sixty-eight.

The Act of February 28, 1877, (19 Stat. 54) removed the Black Hills from the Great Sioux Reservation. The land taken embraced the boundaries described in Article 2 of the treaty of 1868, known as the Black Hills, consisting of approximately 7,345,157 acres lying between the 43rd and 48th standard parallel east of the 104th meridian and west of the 103rd meridian and the Forks of the Cheyenne River.

The Act of February 8, 1877 provides as follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that a certain agreement made by George W. Manypenny, Henry B. Whipple, Jared W. Daniels, Albert G. Boone, Henry C. Bulis, Newton Edmunds, and Augustine S. Gaylord, commissioners on the part of the United States, with the different bands of the Sioux Nation of Indians, and also the Northern Arapahoe and Cheyenne Indians, be, and the same is hereby, ratified and confirmed: Provided, that nothing in this act shall be construed to authorize the removal of the Sioux Indians to the Indian Territory and the President of the United States is hereby directed to prohibit the removal of any portions of the Sioux Indians to the Indian Territory until the same shall be authorized by an act of Congress hereafter enacted, except article four, except also the following portion of article six: "And if said Indians shall remove to said Indian Territory as hereinbefore provided, the Government shall erect for each of the principal chiefs a good and comfortable dwelling-house" said article not having been agreed to by the Sioux Nation; said agreement is in words and figures following, namely: "Articles of agreement made pursuant to the provisions

of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and seventy-seven, and for other purposes," approved August 15, 1876, by and between George W. Manypenny, Henry B. Whipple, Jared W. Daniels, Albert G. Boone, Henry C. Bulis, Newton Edmunds, and Augustine S. Gaylord, commissioners on the part of the United States, and the different bands of the Sioux Nation of Indians, and also the Northern Arapahoes and Cheyennes, by their chiefs and headmen, whose names are hereto subscribed, they being duly authorized to act in the premises.

ARTICLE 1.

The said parties hereby agree that the northern and western boundaries of the reservation defined by article 2 of the treaty between the United States and different tribes of Sioux Indians, concluded April 29, 1868, and proclaimed February 24, 1869, shall be as follows: The western boundaries shall commence at the intersection of the one hundred and third meridian of longitude with the northern boundary of the State of Nebraska; thence north along said meridian to its intersection with the South Fork of the Cheyenne River; thence down said stream to its junction with the North Fork; thence up the North Fork of said Cheyenne River to the said one hundred and third meridian; thence north along said meridian to the South Branch of Cannon Ball River or Cedar Creek; and the northern boundary of their said reservation shall follow the said South Branch to its intersection with the main Cannon Ball River, and thence down the said main Cannon Ball River to the Missouri River; and the said Indians do hereby relinquish and cede to the United States all the territory lying outside the said reservation, as herein modified and described, including all privileges of hunting; and article 16 of said treaty is hereby abrogated.

ARTICLE 2.

The said Indians also agree and consent that wagon and other roads, not exceeding three in number, may be constructed and maintained, from convenient and accessible points on the Missouri River, through said reservation, to the country lying immediately west thereof, upon such routes as shall be designated by the President of the United States; and they also consent and agree to the free navigation of the Missouri River.

ARTICLE 3.

The said Indians also agree that they will hereafter receive all annuities provided by the said treaty of 1868, and all subsistence and supplies which may be provided for them under the present or any future act of Congress, at such points and places on the said reservation, and in the vicinity of the Missouri River, as the President of the United States shall designate.

ARTICLE 4.

The Government of the United States and the said Indians, being mutually desirous that the latter shall be located in a country where they may eventually become self-supporting and acquire the arts of civilized life, it is therefore agreed that the said Indians shall select a delegation of five or more chiefs and principal men from each band, who shall, without delay, visit the Indian Territory under the guidance and protection of suitable persons, to be appointed for that purpose by the Department of the Interior, with a view to selecting therein a permanent home for the said Indians. If such delegation shall make a selection which shall be satisfactory to themselves, the people whom they represent, and to the United States, then the said Indians agree that they will remove to the country so selected within one year from this date. And the said Indians do further agree in all things to submit themselves to such beneficent plans as the Government may provide for them in the selection of a country suitable for a permanent home, where they may live like white men.

ARTICLE 5.

In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization: to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868. Also to provide the said Indians with subsistence consisting of a ration for each individual of a pound and a half of beef, (or in lieu thereof, one half pound of bacon), one half pound of flour, and one half pound of corn; and for every one hundred rations, four pounds of coffee, eight pounds of sugar, and three pounds of beans, or in lieu of said articles the equivalent thereof, in the discretion of the Commissioner of Indian Affairs. Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves. Rations shall, in all cases, be issued to the head of each separate family; and whenever schools shall have been provided by the Government for said Indians, no rations shall be issued for children between the ages of six and fourteen years (the sick and infirm excepted) unless such children shall regularly attend school. Whenever the said Indians shall be located upon lands which are suitable for cultivation, rations shall be issued only to the persons and families of those persons who labor, (the aged, sick and infirm excepted;) and as an incentive to industrious habits the Commissioner of Indian Affairs may provide that such persons be furnished in payment for their labor such other necessary articles as are requisite for civilized life. The Government will aid said Indians as far as possible in finding a market for their surplus productions, and in finding employment, and will purchase such surplus, as far as may be required, for supplying food to those Indians, parties to this agreement, who are unable to sustain themselves; and will also employ Indians, so far as practicable, in the performance of Government work upon their reservation.

ARTICLE 6.

Whenever the head of a family shall, in good faith, select an allotment of said land upon such reservation and engage in the cultivation thereof, the Government shall, with his aid, erect a comfortable house on such allotment; (and if said Indians shall remove to said Indian Territory as hereinbefore provided, the Government shall erect for each of the principal chiefs a good and comfortable dwelling house.)

ARTICLE 7.

To improve the morals and industrious habits of said Indians, it is agreed that the agent, trader, farmer, carpenter, blacksmith, and other artisans employed or permitted to reside within the reservation belonging to the Indians, parties to this agreement, shall be lawfully married and living with their respective families on the reservation; and no person other than an Indian of full blood, whose fitness, morally or otherwise, is not, in the opinion of the Commissioner of Indian Affairs, conducive to the welfare of said Indians, shall receive any benefit from this agreement or former treaties, and may be expelled from the reservation.

ARTICLE 8.

The provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and, with the provisions of this agreement, shall apply to any country which may hereafter be occupied by the said

Indians as a home: and Congress shall, by appropriate legislation, secure to them an orderly government, they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life.

ARTICLE 9.

The Indians, parties to this agreement, do hereby solemnly pledge themselves, individually and collectively, to observe each and all of the stipulations herein contained, to select allotments of land as soon as possible after their removal to their permanent home, and to use their best efforts to learn to cultivate the same. And they do solemnly pledge themselves that they will at all times maintain peace with the citizens and Government of the United States; that they will observe the laws thereof and loyally endeavor to fulfill all the obligations assumed by them under the treaty of 1868 and the present agreement, and to this end will, whenever requested by the President of the United States, select so many suitable men from each band to co-operatie with him in maintaining order and peace on the reservation as the President may deem necessary, who shall receive such compensation for their services as Congress may provide.

ARTICLE 10.

In order that the Government may faithfully fulfill the stipulations contained in this agreement, it is mutually agreed that a census of all Indians affected hereby shall be taken in the month of December of each year, and the names of each head of family and adult person registered; said census to be taken in such manner as the Commissioner of Indian Affairs may provide.

ARTICLE 11.

It is understood that the term reservation herein contained shall be held to apply to any country which shall be selected under the authority of the United States as the future home of said Indians.

This agreement shall not be binding upon either party until it shall have received the approval of the President and Congress of the United States.

Dated and signed at Red Cloud agency, Nebraska, September 26, 1876.

ACQUISITION OF THE BLACK HILLS

In 1874, the Secretary of Interior established a commission known as the Special Sioux Commission, to negotiate with the Brule and Ogallala Sioux to abandon their rights under Articles XI and XVI of the 1868 Fort Laramie Treaty. The commission was only partially successful in its mission, obtaining from the Brules the surrender of their Article XI rights only, and obtaining no agreement at all from the Ogallalas.

In May of 1874, the Secretary of War directed Lieutenant Colonel George A. Custer to command an expedition into the Black Hills to explore the area. Reports as to the agricultural, mineral and grazing land involved in the subject area were also filed by Samuel D. Hinnan and Walter P. Jenney.

In May, 1875, a delegation of Sioux Chiefs and other leaders were brought to Washington to hear proposals concerning the purchase of the Black Hills by the United States and the extinguishment of various off-reservation hunting and fishing rights. After the members of the Sioux delegation returned to their agencies, an agreement was reached whereby the Sioux relinquished their remaining hunting rights in Nebraska in return for $25,000 in goods. This agreement was never ratified or enacted into law by Congress.

In June, 1875, the Secretary of Interior, acting under the instructions from President Grant appointed a commission to negotiate with the Sioux for the cession of the Black Hills and for the surrender of the Sioux's right to hunt in the Big Horn area in Southeastern Montana. This commission became known as the Allison Commission.

During September, 1875, the Allison Commission met with the Sioux in a grand council. It urged that the Sioux sell the Black Hills. The Sioux, realizing the great value of the Black Hills to the United States, offered to sell them to the United States for 70 million dollars, plus additional compensation for gold already mined. The commission, in return, offered to pay $400,000 dollars per year for the right to mine, grow livestock, and cultivate the soil in the Black Hills, or, in the alternative, to buy the hills outright for six million dollars. The Allison Commission reported its failure to the Secretary of Interior.

In November 1875, the Grant Administration began to change its policy toward the Black Hills. The President, with the concurrence of his Secretary of War and Secretary of Interior, decided that, although non-Indians were still forbidden from entering the hills, the army would no longer seek to enforce the law. The army would be removed from the Black Hills, and no further military opposition was to be offered to miners attempting to enter the hills.

The United States failed to keep unauthorized persons, including non-Indian prospectors and miners, from entering onto the Black Hills, and, at least after the Allison Commission failed to induce the Sioux to cede the Black Hills to the United States, adopted a policy and took specific actions which encouraged unauthorized persons to enter onto the subject tract. As a result of this policy and these actions many non-Indians entered the subject area, established towns, organized mining districts, filed and developed mining claims, and mined and removed gold from the Great Sioux Reservation. The Sioux have never received any compensation for the gold mined and removed prior to February 28, 1877. The Indian Claims Commission found that the gold mined from the subject tract prior to February 28, 1877, had a gross value of $2,250,000, and a value in the ground to plaintiffs of $450.000. The Indian Claims Commission rational was that the removal of gold from the Sioux Reservation was a direct and natural consequence of President Grant's orders and was an intentional governmental act.

In response to hostilities against whites and Indians of other tribes in the unceded Indian territory by small numbers of nonreservation Sioux, the Secretary of Interior, on December 3, 1875, instructed the Commissioner of Indian Affairs to direct agents at all agencies in Dakota and at Fort Peck to notify the Sioux in the Yellowstone and Powder River areas "that unless they move within the bounds of the reservation (and remain there) before the 31st of January next, they shall be deemed hostile, and treated accordingly by military force."

The bulk of the Sioux who were in the unceded territory during the winter of 1875-76 were hunting with the permission of their agents, as they had the right to do under Article XVI of the 1868 treaty. When they received notice of the order to return to the reservation, they replied that they would return in the spring after the hunt. The severity of the winter made it impossible for most of the Sioux to comply with the Secretary's order. Nonetheless, on February 1, 1876, the Secretary of the Interior notified the Secretary of War that his order had not been complied with, and that the Sioux were being turned over to the Army for appropriate military action.

On June 25, 1876, the Seventh Cavalry, under the command of George A. Custer, attempted a surprise attack upon an Indian encampment in the valley of the Little Big Horn River. The Sioux inflicted a crushing defeat on the Army killing 259 men.

Congress reacted by attaching the following rider to a one million dollar Sioux subsistence provision in the appropriations act enacted August 15, 1876, (19 Stat. 176, 192):

> "Provided, that none of said sums appropriated for the Sioux Indians shall be paid to any band thereof while said band is engaged in hostilities against the white people; and hereafter there shall be no appropriation made for the

> subsistence of said Indians, unless they shall first agree to relinquish all right and claim to any country outside the boundaries of the permanent reservation established by the treaty of eighteen hundred and sixty-eight for said Indians; and also so much of their said permanent reservation lies west of the one hundred and third meridian of longitude, and shall also grant right of way over said reservation to the country thus ceded for wagon or other roads."

In short this provision meant that unless the Sioux ceded the Black Hills to the United States, surrendering their right to hunt off the reservation, the United States would allow them to starve. Further, Congress requested the president appoint another Commission to negotiate with the Sioux for the cession of the Black Hills. This commission, headed by George Manypenny, arrived in the Sioux country in early September and commenced meetings with the head men of the various tribes. The members of the commission impressed upon the Indians that the United States no longer had any obligation to provide them with subsistence rations. The commissioners brought with them the text of a treaty that had been prepared in advance. The principal provisions of this treaty were that the Sioux would relinquish their rights to the Black Hills and other lands west of the one hundred and third meridian and their rights to hunt in the unceded territories to the north, in exchange for subsistence rations for as long as they would be needed to ensure the Sioux' survival. In setting out to obtain the tribes' agreement to this treaty, the commission ignored the stipulation of the Fort Laramie Treaty that any cession of the lands contained within the Great Sioux Reservation would have to be joined in by three-fourths of the adult males. Instead, the treaty was presented just to Sioux chiefs and their leading men. It was signed by only 10% of the adult male Sioux population.

Congress resolved the impasse by enacting the 1876 agreement into law as the Act of February 28, 1877 (1877 Act), 19 Stat. 254. The Act had the effect of abrogating the earlier Fort Laramie Treaty, and of implementing the terms of the Manypenny Commission's agreement with the Sioux leaders.

The passage of the 1877 Act legitimized the settlers' invasion of the Black Hills, but throughout the years has been regarded by the Sioux as a breach of this Nation's solemn obligation to reserve the Hills in perpetuity for occupation by the Indians.

COURT OF CLAIMS

Before the establishment of the Indian Claims Commission in 1946, tribes had no forum for pursuing treaty-based claims against the federal government absent congressional action authorizing litigation on behalf of individual tribes. The Court of Claims was expressly prohibited by law from entertaining suits based on treaties and the doctrine of sovereign immunity effectively barred many other tribal claims against the federal government. Thus it was necessary for Congress to pass special acts granting the Court of Claims jurisdiction to adjudicate specified tribal claims. Between 1836 and 1946 Congress enacted 142 such acts.

Dissatisfaction with case by case grants of jurisdiction was expressed as early as 1928. In 1946 Congress addressed the problem by enacting more comprehensive legislation for the adjudication of tribal claims against the federal government. The Indian Claims Commission Act created a unique forum for hearing and deciding such claims. The Commission was established in order to provide tribes with a forum having jurisdiction over claims against the United States. Congress authorized the Commission to hear, among other things, claims that the United States had taken Indian lands without compensation or purchasing Indian lands for less than adequate compensation. Indians could assert either recognized or aboriginal title in support of such claims. But, the Court of Claims is only given jurisdiction to award a monetary award. The Indian Claims Commission was initially given a term of ten years. This was extended several times. The final extension occurred in 1976 and provided that the Commission would continue to operate until September 30, 1978. The Act of October 8, 1976 provided that cases pending on that date would be transferred to the Court of Claims. The Court of Claims was abolished in 1982 and its jurisdiction was divided between the Claims Court and the Court of Appeals for the Federal Circuit. But, again the jurisdictional sections only authorized a payment for the illegal taking of property. No provision was made for the return of land.

Consequently, it is for this reason that we turn to Congress. It was the Congress of the United States that authorized the taking of the Black Hills in 1877. It was the Congress of the United States that established the Indian Claims Commission providing only a monetary settlement for the unconstitutional taking, and it is the United States Congress that has the authority to return the land to the Sioux Nation. Consequently, we have come full cycle. The land has been taken and now we ask that it be returned. It is unquestioned that the Black Hills are the aboriginal and recognized homeland of the Sioux Nation. That the Black Hills hold deep religious significance for the Sioux Nation and are central and indispensable to the full exercise of Sioux religion as well as the religion of certain other Indians. Further, the Sioux Nation views the Black Hills as an alienable and have never voluntarily surrendered the Black Hills.

Congress has resolved complex American Indian land title and religious issues by conveying title, as well as other forms of compensation, without restricting such resolution to monetary award.

Finally, it is in the interest of the United States to enter into a just and honorable Sioux Nation-Black Hills land settlement recognizing and re-affirming the United States domestic and international committments to the Sioux Nation self development, economic security and religious freedom by acknowledging the traditional and historical belief of the Sioux and other certain Indians in the sacred character of the earth and in the Black Hills in particular, as well as their religious rights to freely exercise such beliefs.

To this end, the Sioux Nation-Black Hills Act provides the following, to wit:

1. It transfers to the Sioux Nation that portion of the Great Sioux Reservation excluded from the reservation by the Act of February 28, 1877 presently held by the United States of America.

2. It will not disturb privately held lands in the re-established area, provided that the Sioux Nation may purchase such lands and may receive title to such land by gift, devise, exchange or other transfer.

3. All lands in the re-established area shall remain equally accessible to all persons, both Sioux and non-Sioux, under such rules and regulations as the Sioux may from time to time establish and publish. Lands within the Sioux park which were traditionally religious or ceremonial sites shall be identified by the Sioux and shall be excluded from public access to preserve their primary religious uses and integrity.

4. Lands acquired by the Sioux Nation pursuant to this act which are not included in the Sioux National Park and which are under the jurisdiction of the United States Forest Service prior to the effective date of this act will be designated as the Black Hills Forest and may be used by the Sioux Nation in accordance with the principal of respect for the earth.

5. The lands are to be governed by Sioux National Council. This Council will be selected by the Sioux Nation.

6. In essence of this act recognizes the sovereignty of the Sioux Nation and allows the Sioux Nation to govern the lands conveyed pursuant to this act and provide for compensation for the loss of the use of its land from 1877 and not for extinguishment of title.

CONCLUSION

Finally, it is the purpose of the Constitution of the United States that full value be given for any property taken. It is undeniably apparent in this matter that full value can only mean return of the land and compensation for its use. Religious, cultural and historical significance have no monies worth. In conclusion we request the Congress of the United States of America right the wrongs of the past which led the Supreme Court of the United States to state:

"A more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history".

Sincerely,

Keith Jewett
For the Cheyenne River
Sioux Nation

RESOLUTION NO. 137-86-CR

WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated Tribe of Indians, having accepted the provisions of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the Tribe, in order to establish its tribal organization; to conserve its tribal property; to develop its common resources; and to prmote ghe general welfare of its people, has ordained and established a Constitution and By-Laws, and

WHEREAS, the Tribal Council has gone on record to support the Sioux Nation Black Hills Act, per Resolution No. 116-86-CR, and

WHEREAS, the Tribal Council realizes the importance of the Senate Select Committee on Indian Affairs Hearing on this legislation, said Hearing is scheduled for July 16, 1986, in Washington, D. C., and

WHEREAS, the Tribes are being allowed to present oral and written testimony which will reflect the Tribes' position on the Sioux Nation Black Hills Act, S. 1453, and

WHEREAS, the Tribal Council has appointed a delegation to attend the Senate Select Committee Hearing, now

THEREFORE BE IT RESOLVED, the Cheyenne River Sioux Tribal Council does hereby authorize the Cheyenne River Sioux Tribal delegation to present oral testimony and submit written testimony which would support the passage of the Sioux Nation Black Hills Act, S. 1453.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribe, certify that the Tribal Council is composed of fifteen (15) members, of whom 14, constituting a quorum, were present at a meeting duly and specially called, noticed, convened and held this 8th day of July, 1986, Special Session; and that the foregoing resolution was duly adopted at such meeting by an affirmative vote of 11 for, 0 against, 3 not voting and 1 absent.

Arlene Thompson, Secretary
Cheyenne River Sioux Tribe

PREPARED STATEMENT OF

JOE AMERICAN HORSE, PRESIDENT, OGLALA SIOUX TRIBE

ON

S. 1453, THE SIOUX NATION BLACK HILLS ACT

BEFORE

THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

July 16, 1986

Mr. Chairman and members of the Committee:

My name is Joe American Horse. I am President of the Oglala Sioux Tribe. The Tribe is one of the eight Lakota tribes which formerly comprised the Sioux Nation recognized by the United States in many treaties. The Tribe occupies the Pine Ridge Indian Reservation, which was once a part of the Great Sioux Reservation set aside for the Sioux Nation by the Fort Laramie Treaty of April 29, 1868. We appreciate the opportunity to testify before the Committee on this important piece of legislation.

The Oglala Sioux Tribe was instrumental in organizing and supporting the Black Hills Steering Committee in a unified effort of the various Sioux tribes to develop legislation for the return of the federal land in the Black Hills to the Sioux

Nation. The bill that was introduced by Senator Bill Bradley of New Jersey, S. 1453, is essentially the bill that was developed through this organized effort. We therefore support S. 1453 and urge the Committee and the United States Congress to support the return of the federal lands in the Black Hills to the Sioux Nation. The bill corrects a century-old wrong against the Lakota people caused by the United States taking of the Black Hills in violation of the 1868 Treaty and the United States Constitution.

The history of the federal government's take-over of the Black Hills and the tribes' attempts to recover this sacred area is long and complex. The Black Hills was at the heart of the Lakota territory recognized under the treaty of September 17, 1851, which included all of the present State of South Dakota, and parts of what is now Nebraska, Wyoming, North Dakota and Montana. Repeated unlawful incursions into the Lakota territory led to the Powder River War of 1866-1867 in which the Sioux tribes, led by the great Chief, Red Cloud, were undefeated by federal troups. The tribes' successes in the war led to the Fort Laramie treaty of 1868, considered by some commentators to have been a complete victory for Red Cloud and the Sioux. One commentator describes the treaty as "the only instance in the history of the United States where the government has gone to war and afterwards negotiated a peace conceding everything demanded by the enemy and exacting nothing in return."

The Fort Laramie treaty established the Great Sioux Reservation, which included approximately half the area of what is now the State of South Dakota, including all of the State west of the Missouri River save for a narrow strip in the far western portion. The reservation also included a narrow strip of land west of the Missouri and north of the border between North and South Dakota. The United States pledged that the Reservation would be "set apart for the absolute and undisturbed use and occupation of the Indians herein named." The government "solemnly agree[d]" that no unauthorized persons "shall ever be permitted to pass over, settle upon, or reside in [this] territory." The Sioux also retained hunting rights outside the Reservation and north of the North Platte River. In return, the Indians agreed to not oppose the building of railroads that did not pass over their reservation lands, not to engage in attacks on settlers, and to withdraw their opposition to the military posts and roads that had been established south of the North Platte River.

Article XII of the Treaty provided:

> No treaty for the cession of any portion or part of the Reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three fourths of all the adult male Indians, occupying or interested in the same.

The 1868 Treaty brought relative peace to the Dakotas, until the greed of non-Indians for the gold in the Black Hills caused the United States government to breach its promise to the Sioux people. Prior to the treaty, both the United States government and the Sioux people knew that at least small deposits of gold existed in the Black Hill. In 1874, following rumours of large deposits, Lieutenant Colonel George Armstrong Custer led a military and exploratory expedition into the Black Hills in violation of the Fort Laramie treaty. The expedition confirmed the existence of large deposits of gold in the Black Hills, creating an intense popular demand for the opening of the Hills for settlement by non-Indians.

Initially, the United States Army made some feeble attempts to exclude prospectors and settlers from trespassing on lands reserved to the Indians, as it was obligated to do under the Fort Laramie Treaty. At the same time, however, the Army supported the extinguishment by Congress of the Indian title to the land.

What happened next has been described by the United States Supreme Court as follows:

> Eventually, however, the Executive Branch of the Government decided to abandon the Nation's treaty obligation to preserve the integrity of the Sioux territory. In a letter dated November 9, 1875, to [Brigadier General Alfred H. Terry, Commander of the Department of Dakota, Lieutenant General Philip H.] Sheridan reported that he had met with President Grant, the Secretary of the Interior, and the Secretary of War and that the President had decided that the military should make no further resistance to occupation of the Black Hills by miners, "it being his belief that such resistance only increased their desire and complicated the troubles." These orders were to be enforced "quietly" and the President's decision was to remain "confidential."

United States v. Sioux Nation of Indians, 448 U.S. 371, 378 (1980) (citations omitted).

Settlement of the Black Hills increased once the Army had stopped excluding trespassers. The Sioux Nation refused an offer by a federal commission to buy the Black Hills for $6 million, due to the religious value of the land to the Sioux people. Subsequently, in the winter of 1875-1876, the Secretary of the Interior declared Indians hunting off the reservation in the exercise of their hunting rights under the Fort Laramie Treaty "hostiles" and turned them over to the jurisdiction of the War Department. Despite Crazy Horse's famous victory over Custer's forces at Little Big Horn, the Indians soon surrendered to the Army and were returned to the Reservation and deprived of their weapons and horses, leaving them completely dependent for survival on government rations.

Defeated and impoverished by the United States, the Lakota were unable effectively to resist the conditions imposed on them in a so-called "agreement" enacted into law as the Act of February 28, 1877. Under this statute, the Sioux were deprived of their rights to the Black Hills and other lands west of the 103 meridian, and their rights to hunt in the unceded territories, in exchange for subsistence rations for as long as they would be needed to ensure their survival. Article XII of the Fort Laramie Treaty, requiring that any cession of lands within the Great Sioux Reservation be joined by three-fourths of the adult males, was ignored by the federal government and violated by the Congress when it enacted the statute. The agreement was presented only to the Sioux chiefs and their leading men and signed by only 10 percent of the adult male Sioux population.

Many historians and the United States Supreme Court have concluded that the duplicity and unjust conduct of the United States in this episode is without equal in the history of the United States' dealings with Indian tribes. Indeed, in United States v. Sioux Nation, the Supreme Court noted that the Court of Claims had characterized the government's taking of the Black Hills as follows:

> A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history ... .

448 U.S. 371, 388 (1980) (quoting 518 F.2d 1298, 1302 (1975)).

Despite the illegality of the government's actions, the Sioux were without a forum in which to present their claims until Congress passed a special jurisdictional statute in 1920. In 1923, pursuant to that statute, the Sioux Tribes filed a petition with the Court of Claims alleging that the government had taken the Black Hills without just compensation in violation of the Fifth Amendment. The Court dismissed the claim on jurisdictional grounds in 1942. In 1950, attorneys for the tribes re-submitted the Black Hills claim to the Indian Claims Commission, pursuant to the Indian Claims Commission Act of 1946. In 1975, the Court of Claims ruled against the Tribes' argument that the taking was unconstitutional, on the grounds that the Tribes had already lost that issue in the 1942 decision. Subsequently, Congress passed Public Law 95-254 in 1978, directing the Court of Claims to decide the case de novo without regard to the 1942 decision. The court subsequently found for the Tribes, and an award of $17.1 million plus simple interest was affirmed by the Supreme Court in 1980.

The Oglala Sioux Tribe chose not to re-file the Black Hills case under P.L. 95-254, deciding instead to seek the restoration of federal lands in the Black Hills to the Sioux Nation. The Tribe filed suit in 1980 in federal district court arguing that the United States, in taking the Black Hills, unconstitutionally exercised its power of eminent domain because the land was taken for a private rather than a public purpose. The Eighth Circuit affirmed the District Court's dismissal of this case, holding that the Indian Claims Commission Act provided the Tribe with an effective and exclusive remedy for the alleged wrongful taking of the Black Hills. Oglala Sioux Tribe v. United States, 650 F.2d 140 (1981), cert. denied, 455 U.S. 907 (1982).

Despite the decision of the Eighth Circuit and the award of over $100 million with interest to the Sioux Tribes in the Black Hills, the Oglala Sioux Tribe has not and will not accept money as compensation for the illegal and unconstitutional taking of the sacred Black Hills. The Black Hills were never and will never be for sale. To demonstrate how adamant our people are in seeking land restoration, I would like to point out that Shannon County, located entirely within the Pine Ridge Indian Reservation, is listed by the Bureau of Census as the poorest county in the United States. Yet our people continue to reject the money and demand a return of federal land.

The Sioux claim for a return of the Black Hills is based on a combination of factors not present in other Indian land restoration efforts. The principal elements are (1) the Supreme Court has ruled that the government illegally confiscated the land through a "ripe and rank case of dishonorable dealings"; and (2) the land is sacred to the Sioux people. On two prior occasions, Congress has returned federal land containing sacred religious sites to Indians tribes. In 1970, Congress returned Blue Lake, the most sacred shrine to the Taos Pueblo since the early XIVth century, to Taos Pueblo. Public Law 91-550. Similarly, in 1978 Congress returned Zuni Salt Lake, a sacred shrine of the Zuni Tribe and the site of annual pilgrimages, to the Zuni Tribe. Public Law 95-280. The claim for the Black Hills is even more compelling than were these claims because it also involves the illegal taking of the land by the federal government. Moreover, because of the unique combination of illegal taking by the federal government and the religious significance of the land, granting the Black Hills claim will not necessarily set a precedent for other possible tribal land claims where such factors are not present.

Finally, the proposed legislation protects the interests and rights of non-Indians. The bill would return only federal lands, not private or state lands. Section 8 provides that title to and use of state and private lands within the re-established area shall not be disturbed. Section 16 preserves valid existing rights of use or possession in lands conveyed to the Sioux Nation currently held by any individual or government. That section protects the rights of persons holding mineral leases, grazing permits, or timber leases, permits or contracts from the federal government.

The Oglala Sioux Tribe urges this Committee and the Congress to correct a long-standing wrong committed by the United States government in illegally confiscating the Black Hills in 1877 against the will of the Sioux people, in a series of events which the Court of Claims has characterized as a "ripe and rank case of dishonorable dealings," in a decision affirmed by the Supreme Court. The return of federal land would be in keeping with the wishes of the Indian people for return of our land rather than a monetary settlement, while recognizing the existing rights of non-Indians to lands within the restored area.

I appreciate the opportunity to express my views on behalf of the Oglala Sioux Tribe on this most important issue.

Oglala Sioux Tribe
Phone (605) 867-5821
Box 468
Pine Ridge, South Dakota 57770

JOE AMERICAN HORSE
President
JOHN STEELE
Vice President
EILEEN H. IRON CLOUD
Secretary
IVAN BETTELYOUN
Treasurer
GARVARD GOODPLUME SR.
Fifth Member

December 3, 1982

Mr. Mario Gonzalez
Oglala Sioux Legal Department
P.O. Box 862
Pine Ridge, SD 57770

Dear Mario Gonzalez:

This letter is both an update and an invitation to move forward in alliance and unity so that we may restore the Black Hills to its rightful owners, the Lakota-Dakota-Sioux nations.

First, the Oglala Sioux Tribal Council has enacted a resolution to oppose any distribution plan that the Bureau of Indian Affairs will submit to Congress. Should Congress enact legislation to support the Bureau's distribution plan, Indian title to the Black Hills will be formally and forever extinguished. The Oglala Sioux Tribal Council encourages each Tribal Council and Treaty Council to pass similar resolutions to strengthen the position that the Black Hills are not for sale. Disapproval of any distribution plan must be registered at the Aberdeen Office and must also be used as a tool to ask Congress to hold formal hearings on the question of title to the Black Hills.

Second, a growing number of people from the Treaty Councils and Tribal Councils have said that they do not want to be the ones to tell their children or their grandchildren that they did not act to protect the sacred Black Hills. Therefore, they have suggested that a Steering Committee be created which will be made up of representatives from each of the Tribal Councils and Treaty Councils. The Steering Committee must be a formal, manageable and legal body, responsible to the participating Tribal Councils and Treaty Councils. Such a Steering Committee will have authority to create the strategy by which land will be restored.

Third, Congress has recently passed legislation which will not allow an automatic distribution of money to extinguish title to the Black Hills. Therefore, the issue of land or money is an open question -- and one that will be decided by the people who have best organized themselves. Therefore, the Oglala Sioux Tribal Council has passed a resolution to send representatives to a Steering Committee for the purpose of developing a strategy to return land. The Tribal Council encourages the other Tribal Councils and Treaty Councils to do the same. Enclosed is a copy of our resolution for your examination.

The Steering Committee members have suggested that a meeting be scheduled for January 15-17 to discuss the strategy to be developed, hire the people to carry out different aspects of the work, and raise funds to make certain that the work will be carried out. For start-up funds, the Oglala Sioux Tribe has committeed $20,000.

If you have any questions, please contact either John Steele, Vice President, Oglala Sioux Tribe at (605) 867-5821, Anita Parlow, Director, Legal Rights Fund, (202) 234-1856, or Mario Gonzalez, Attorney, Oglala Sioux Tribe, (605) 867-5197. If you pass resolutions, please send a copy to Parlow at 1803 Biltmore Street, N.W., Washington, D.C. 20009.

John Steele will call within two weeks to follow through with the Steering Committee meeting.

Cordially,

Joe American Horse
President

RESOLUTION NO. 82-154

RESOLUTION OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

RESOLUTION AUTHORIZING A JOINT LOBBYING EFFORT WITH OTHER 1868 FT. LARAMIE TREATY SIOUX TRIBES TO SEEK A RETURN OF FEDERAL LANDS IN THE BLACK HILLS AND NEGOTIATE A SETTLEMENT OF LANDS HELD BY PRIVATE PARTIES.

WHEREAS, representatives of 1868 Ft. Laramie Treaty Sioux Tribes from four representatives attended a meeting hosted by the Oglala Sioux Tribe at the Oglala Community College Building, Kyle, South Dakota on September 22, 1982, and

WHEREAS, the representatives discussed the need for cooperation on settlement of the Black Hills claim, and resolved to jointly sponsor a bill in the next session of Congress to seek a return of federal lands in the Black Hills taking area, and a just settlement on land occupied by private parties, and

WHEREAS, the representatives adopted an organizational structure to enable the tribe to lobby the bill through Congress and set a target date of April, 1983 to have a proposed bill ready for introduction into the Congress, and

WHEREAS, the representatives also suggested that each of the tribes also contribute $20,000 per year to keep the lobbying effort going, now

THEREFORE BE IT RESOLVED, that the Oglala Sioux Tribal Council hereby endorses and lends its full support to the joint lobby effort and hereby adopts the organizational structure proposed by the tribal representatives at Kyle, a copy of which is attached hereto and incorporated by reference, and

BE IT FURTHER RESOLVED, that the Oglala Sioux Tribe commits itself to a $20,000 annual contribution to support the lobbying effort, provided, that the tribes first contribution will be paid upon approval of the above organizational structure by the Councils of five of the eight Sioux reservations concerned with the Black Hills claim, and a commitment to support the lobbying effort with a $20,000 annual appropriation. The Treasurer is directed to find moneys in the tribal treasury for the first $20,000 contribution to be paid upon request of the Tribal President when the President confirms that five out of eight reservations have joined the lobbying effort, and

BE IT FURTHER RESOLVED, that the Tribal Secretary is hereby directed to send copies of this resolution to the Presidents of all the 1868 Ft. Laramie Treaty reservations for presentation to their respective Tribal Councils.

Eileen H. Iron Cloud
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:

Joe American Horse
President
Oglala Sioux Tribe

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RESOLUTION NO. 82-156

RESOLUTION OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

RESOLUTION AUTHORIZING THE APPOINTMENT OF FOUR (4) COUNCIL MEMBERS TO THE STEERING COMMITTEE.

WHEREAS, a joint lobbying effort with other 1868 Fort Laramie Treaty Sioux Tribes to seek a return of Federal lands in the Black Hills, and

WHEREAS, they have jointly and cooperatively agreed to pursue negotiations in settlement of lands held by private parties, and

WHEREAS, by the appointment of four (4) Council members to the Steering Committee would be to the best interest of its reservation members, now

THEREFORE BE IT RESOLVED, that the Oglala Sioux Tribal Council, hereby endorses and authorizes the appointments of Michael Her Many Horses, Fred Brewer, Louis Whirlwind Horse and Sam Loud Hawk.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned, Secretary of the Oglala Sioux Tribal Council, hereby certify that this resolution was adopted by a vote of: 20 for; 0 against; 2 not voting, during a SPECIAL Session held on the 9th day of NOVEMBER, 1982.

Eileen H. Iron Cloud
Eileen H. Iron Cloud
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:

Joe American Horse
Joe American Horse
President
Oglala Sioux Tribe

RECEIVED
NOV 12 1982
Pine Ridge Agency

PREPARED STATEMENT OF ALEX J. LUNDERMAN

Mr. Chairman, and distinquished members of the Committee, I thank you, on behalf of the Rosebud Sioux Tribe, for this opportunity to testify on this critical issue and legislation. My name is Alex Lunderman, and I am Chairman of the Tribe.

We emphatically support **Senate Bill 1453, "The Great Sioux Nation Black Hills Act"**, and we strongly urge its passage.

The issue of the Black Hills and other Sioux lands illegally taken by the United States government has been with us for over one hundred years. It is well past the time for a fair and just resolution.

Several times in the past the Tribes of the Sioux Nation have opposed and refused to accept monetary settlement for the sacred Paha Sapa, and other lands. This should clearly demonstrate to all concerned, on both sides of the issue, that we do indeed have a special and unique relationship with the land. Yet this relationship is still not understood or accepted by many who are in a position to provide us with that fair and just resolution that is needed here. Would any of you sell your mother for any amount of money? Of course, you would not. Therefore, perhaps you do understand our position.

It is our opinion that the **"Great Sioux Nation Black Hills Act"** is by far the most comprehensive and fair proposal yet offered to resolve the Black Hills situation. It presents an equitable solution to the Sioux Tribes as well as the individual private landowners currently residing in the Black Hills. Of course, it is our philosophical position that no one really can own the land - we can only use it and be part of it; therefore, juxtaposing that position with the fact that the Black Hills were illegally taken by the U.S. government, those with title claim to individual plots of land in the Black Hills are, in our opinion, standing on shakey ground - morally, as well as legally. However, since stripping individual titles would cause unnecessary hardship, we accept and agree with the approach provided by the proposed Act. We do understand, first hand, that being forced off of what one considers to be one's land is indeed a hardship.

The Black Hills will always be sacred to us. It is part of the core of our culture and religion, a heritage that we must pass on to generations yet to come. The return of our sacred ground in total has always been our goal, but in the interest of fairness to all concerned and seeing that justice to all Sioux peoples may finally come to pass, we accept and support the Act. However, we must caution that the provisions of Section 22, Extinquishment of Claims, should be followed only after the Sioux Tribes are fully and completely satisfied that all other provisions in the Act are satisfactorily implemented and/or completed.

We urge that this distinquished Committee examine the **"Great Sioux Nation Black Hills Act"** fully, and then recommend its passage. Its defeat would be a setback, for not only the Sioux, but for all peoples who are true natives of this great land.

The Rosebud Sioux Tribal Council, by Resolution 85-110 enacted on July 12, 1985 stands in support of the Act, on behalf of the members of the Rosebud Sioux Tribe. So do I.

Briefly, I would like to make a statement to Senator Bill Bradley. We thank you for your insight and compassion, which motivated your authorship of this piece of necessary legislation; and we applaud you for the courage it has taken for you to introduce it to the Senate of the United States. For that, among us you will be well and long remembered.

Mr. Chairman, thank you once again for the opportunity to appear before your distinquished Committee.

ALEX J. LUNDERMAN
President

VERNON "IKE" SCHMIDT
Vice-President

Rosebud Sioux Tribe
ROSEBUD INDIAN RESERVATION
ROSEBUD, SOUTH DAKOTA 57570

Incorporated Under Act of June 18, 1934, 48 Stat - 984

PHONE 605-747-2381 — P.O. BOX 430

SHARON L. BURNETTE
Secretary

CHARLES WHITE PIPE, JR.
Treasurer

TESTIMONY

RE: "SIOUX NATION BLACK HILLS ACT"

Much of the Sioux (Lakota) history is oral and still exists among the Rosebud Sioux. This ancient history has been passed down for countless generations and continues to be passed down to each new generation.

A current concern in Sioux Country is Docket 74B, also known as the Sioux Claim to the Black Hills. Our history has always included stories of the Black Hills, the sacred sites located within this area, the hunting areas, sites used for certain ceremonies and annual camping places. Some of the sacred sites within the Black Hills are (by their English name), Wind Cave - believed to be the opening into the world from which the first Sioux (Lakota) emerged, Red Canyon - with its rules for living inscribed on the walls, Mt. Coolidge - used as a place to comfort those in mourning, Harney Peak - a significant ceremonial place. These are just a few of the places used for ceremonial purpose. Many of the ceremonies are still practiced today, but usually on the various Sioux Reservations.

A recent essay by Mr. Ron Goodman, an instructor from Sinte Gleska College located in Mission, South Dakota, entitled "ETHNOASTRONOMY OF THE LAKOTA (Lakota Stellar Theology and the Tiospaye)", records the Lakota Constellations based on oral history. The primary focus is on the sacred sites within the Black Hills area. What Mr. Goodman has written in this essay is very interesting since he offers a theory establishing the Lakota people have been in the Black Hills area since, at least, 1616 B.C. This oral history still alive on the Sioux Reservtions, makes it clear to me that the Sioux People believe, and have always believed, the Black Hills area is their homeland.

On April 29, 1868, the Ft. Laramie Treaty was signed between the U.S. Government and the Lakota (Sioux) male of the various Sioux Tribes. It was a "peace-keeping document" and worded as such: "From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it." The boundries of the Great Sioux Reservation were established in this Treaty. It included all land from the east bank of the Missouri River to the western South Dakota state line. The Treaty stated this land was "...set apart for the absolute and undisturbed use and occupation of the Indians herein named, ... and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents and employees of the Government as may be authorized to enter upon Indian Reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article..."

The meaning of these treaty words is very clear, that this area was guaranteed to the Lakota, but the U.S. Government should have included the following sentence, "The U.S. Government is not bound by the Treaties it makes." One of the most frustrating facts is that the U.S. Government is not bound by its honor to keep this treaty made in good faith by the Lakota.

The Sioux, as history shows, will not give up the Black Hills. In 1910 delegations traveled to Washington, DC trying to convince the government they were in violation of the 1868 Treaty and the 1877 Act allowed illegal taking of their land. They were ignored. One recorded document states "After years of intensive lobbying efforts the Lakota finally convinced Congress to pass a special jurisdictional act allowing a forum, the Court of Claim's, to adjudicate treaty matters." This was in 1920. In 1923 the Lakota filed a suit in the Court of Claims, this Claim stated that the taking of the Black Hills was in direct violation of the 5th Amendment. The case was dismissed in 1942 by the Court of Claims on the grounds that "it wasn't authorized to determine whether the 1877 Act taking the Black Hills provided adequate compensation for the land." In 1943 the U.S. Congress created the Indian Claims Commission to hear all tribal grievances. The Sioux filed the Black Hills Claim in 1950 to the Indian Claims Commission but in 1954 they ruled that the Sioux failed to prove their case. Four years later the Indian Claims Commission re-opened the case. "After another ten years of lengthy legal battles between the claims attorneys and lawyers representing the government, the Claims Commission considered "... what the U.S. actually gained from the land acquired by the Act of 1877 and whether payment be considered for the land." On February 15, 1974 the Claims Commission voted 4-1 in favor of the Sioux being entitled to "just compensation" for the land. The Commission determined "that the seven million acres of land was worth $17.1 million in 1877, and the Sioux should recieve that plus 5 percent simple interest dating from 1877." In 1975 the Court of Claims reversed the Claims Commission decision. It was then appealed to the Supreme Court, who refused to review the decision. In 1978 Congress passed legislation directing the Court of Claims to re-hear the case without regard to whether it had been seetled in an earlier court. On June 13, 1979 the Court of Claims ruled that the Sioux are entitled to the $17.1 million plus interest. On December 10, 1979 the Supreme Court agreed to hear the Government's appeal to this decision. On June 30, 1980 the Supreme Court also upheld the decision for monetary award to the Sioux Nation. The Sioux Nation has been and continues to be persistent when the issue is the Black Hills which will continue until we are justified by partial return of the land. One positive aspect from our perspective is the fact that the U.S. Government looked at the unconstitutionality of the illegal taking of the Black Hills. The Supreme Court stated "A more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history."

In reality, we, as a nation were dealt with unfairly, moved out of an area we considered sacred for the sake of gold, reeks of injustice and compensation can be given only by return of the lands requested in the Sioux Nation Black Hills Act. In other words by accepting the monetary payment we sanction the stealing of lands which were guaranteed by the U.S. Government for the Sioux Nation's continual, undisturbed use.

The proposed Sioux Nation Black Hills Act outlines the specific wishes of the Sioux Nation in regards to the Black Hills and I encourage passage of this Bill. I believe Docket 74B has come so far is due to the dedication of the Sioux people from the various bands of the Great Sioux Nation. These people know the Black Hills is a base for our religious beliefs, these do not die, nor does the struggle. We were not meant to be a nation always pleading for money and federal programs from the Government. We did not live in poverty and discontent before the Government took over our livlihood. Now, by this proposed Bill, the Sioux Nation is saying we are giving the U.S. Government a chance to be honorable and return, at least, a portion of the Black Hills to the original inhabitants. As the proposed Bill states, "The Sioux Nation has pressed its claim to the Black Hills ... continuously for more than 100 years." To the Lakota (Sioux) this means the Black Hills are of great significance, something spiritual, something money could never buy.

Respectfully submitted,

Alex J. Lunderman

Alex J. Lunderman, President
Rosebud Sioux Tribe

RESOLUTION NO. 85-110

OF THE ROSEBUD SIOUX TRIBE

WHEREAS The Rosebud Sioux Tribe is a federally recognized and/or organized tribe who is a successor in interest to the sovereign and independent bands of the Sioux Nation who separately entered into the multi-lateral Treaty of April 29, 1868 with their chiefs and headmen acting as ministers, and

WHEREAS, The Black Hills are the sacred center of aboriginal territory of the Sioux Nation and as such hold deep religious significance for the Sioux Nation and are central and indispensible to the free exercise of the Sioux religion, and

WHEREAS, The Black Hills are within Sioux treaty territory, as affirmed by the Treaties of September 15, 1851, (11 Stat. 749) and April 29, 1868, (15 Stat. 635), and

WHEREAS, The Rosebud Sioux Tribal Council, as an integral part of the Sioux Nation, view the Black Hills as inalienable and have never voluntarily surrendered or ceded the Black Hills, and have resolved not to accept money in exchange for extinguishment of title to such lands and for extinguishment of the right to practice traditional religion in the Black Hills and

WHEREAS, The Sioux Nation never have been accorded a forum within which to seek the return of lands, and

WHEREAS, The Sioux Nation has pressed its claim to the Black Hills vigorously and continuously for more than one hundred years, and

WHEREAS, It will further the interests of the United States to enter into a just and honorable Sioux Nation Black Hills lands settlement, recognizing and reaffirming its domestic and international committments to Sioux Nation self-determination, economic security and religious freedom, and acknowledging the traditional and historical belief of the Sioux in the sacred character of the Earth and in the Black Hills in particular, as well as their rights to freely exercise such beliefs, now

RST RESOLUTION NO 77/106

WHEREAS, the Black Hills Sioux Nation Council, which is recognized in their Constitution by the Oglala Sioux Nation, Pine Ridge Reservation; Rosebud Sioux Nation, Rosebud Reservation; Lower Brule Sioux Nation, Lower Brule Reservation; Crow Creek Sioux Nation, Crow Creek Reservation; Cheyenne River Sioux Nation of the Cheyenne River, all of the State of South Dakota; Standing Rock Sioux Nation of the Standing Rock Reservation of the State of South and North Dakota; Fort Peck Sioux Nation of the State of Montana; the Santee Sioux Nation of the State of Nebraska and other Sioux People, and

WHEREAS, in Article #2, membership in the Constitution of the Black Hills Sioux Nation Council in the Tribes mentioned in paragraph #1, and

WHEREAS, the Black Hills Sioux Nation Council is requesting from each Tribal Government addressed to the Tribal Secretary to present to each Tribal Council, and

WHEREAS, the Black Hills Sioux Nation Council is requesting the Tribes to give full support to meet the expenditures of this Organization - in Article #4, Sections A & I - of said Constitution, to request funds from and Federal sources or any funding organizations so it can function more effective and act according to its Constitution delegated by the Tribes, and

WHEREAS, the Tribal Government herein mentioned shall give full support to the Black Hills Sioux Nation Council in applying and requesting for the expenditures that are badly needed to maintain and administer the Black Hills Sioux Nation Council by the eight (8) Tribes herein mentioned, and

WHEREAS, under the Constitution of the eight (8) Tribes obligated $100.00/year to the Black Hills Sioux Nation Council and will be paid for the year 1976-1977.

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribe is in full support of the Black Hills Sioux Nation Council and will pay its membership dues for the years 1976-1977, effective immediately.

BE IT FURTHER RESOLVED, that the Rosebud Sioux Tribe will write a letter of support to all Federal Agencies and other funding organizations to which the Black Hills Sioux Nation Council will be seeking funds from.

CERTIFICATION

This is to certify that the above Resolution 77-106 was duly passed by the Rosebud Sioux Tribal Council in session, November 16, 1977 by a vote of 22 in favor and none opposed. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

Edward Driving Hawk
President
Rosebud Sioux Tribe

ATTEST:

John King Jr.

John King, Jr. Tribal Secretary
Rosebud Sioux Tribe

APPROVED:
GEORGE E. KE

NOV 29 1977

Superintendent

DATE SUBMITTED 11/17/77
TO ROSEBUD AGENCY SUPT

Santee Sioux Tribe of Nebraska

PREPARED STATEMENT OF RICHARD L. KITTO.

My name is Richard L. Kitto and I am the representative from the Santee Sioux Tribe of Nebraska, and I appreciate this opportunity to present testimony in support of the Sioux Nation Black Hills Act S.1453 to the Senate Select Committee on Indian Affairs.

I am here, today, to urge you to approve this very important legislation, report it favorably out of committee and vote for its adoption. The Santee Sioux Tribe of Nebraska has participated in the unified tribal effort for developing a legislative proposal and pursuing the return of lands in the Black Hills to the Sioux Nation.

The Sioux Nation-Black Hills Act was developed over a two and one half year period. Careful attention was given to articulating and incorporating Sioux philosophical principles into the legislation. We held consultations with representatives of the Black Hills community to insure that their concerns were respected in the legislation. You will find that the Sioux Nation Black Hills Act is tightly drafted, is fair, and most importantly it provides the United States of America with an avenue for correcting what has been a blemish on the record of the Congress for more than 109 years.

Mr. Chairman, we are a reasonable and fair people who believe in the principles of freedom of religion, the right to own property and have that right protected by the laws of this great nation, and we believe in justice. When we started our efforts we were told by our elders and spiritual leaders that this work was necessary, because the Black Hills is the core of our existence. They said, "even if there is only one just man in the entire world and you must walk the entire earth to find that one man - then that is what you must do, for generations yet unborn depend upon you to protect the Heart of Everything That Is". We are here today, because we believe that there must be more than one just man in the world and we hope there are many in Congress.

The Black Hills is not just another local Indian issue, the Black Hills taking has been cited by the courts as "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in the history of our nation". It was the Congress of the United States that took the Black Hills and it is the Congress that can now return the Black Hills to the Sioux Nation. What we are asking for in S.1453 is fair and we think it is time for Congress to take the courageous step of writing that chapter of honor in the history of the United States' dealings with the Sioux Nation.

I have attached resolutions of the Santee Sioux Tribal Council regarding our position for seeking land return and supporting the Sioux Nation Black Hills Act to my testimony. You will find that we are strong in our position of not accepting monies for the Black Hills and we will not sell our right to practice traditional religion in this most sacred of all lands. I hope you will look at this issue carefully and know that we are fair and reasonable people who have come here today seeking justice and resolution to an injustice committed against our people.

THE 1868 FORT LARAMIE TREATY PROVIDED IN PART AS FOLLOWS:

TREATY WITH THE SIOUX - BRULE, OGLALA, MINICONJOU, YANKTONAI, HUNKPAPA, BLACKFEET, CUTHEAD, TWO KETTLE, SANS ARCS, AND SANTEE - AND ARAPAHOE, 1868.

Articles of a treaty made and concluded by and between Lieutenant General William T. Sherman, General William S. Harney, General Alfred H. Terry, General C. C. Augur, J. B. Henderson, Nathaniel G. Taylor, John B. Sanborn, and Samuel F. Tappan, duly appointed commissioners on the part of the United States and the different bands of the Sioux Nation of Indians, by their chiefs and head men, whose names are hereto subscribed, they being duly authorized to act in the premises.

ARTICLE 2.

> The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the one hundred and fourth degree of longitude west from Greenwich, thence north on said meridian to a point where the forty-sixth parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning;

> and in addition thereto, all existing reservations on the east bank of said river shall be, and the same is set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents, and employees of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

That the Act of February 28, 1877, (19 Stat. 54) removed the Black Hills from the Great Sioux Reservation. The land taken embraced the boundaries described in Article 2 of the Treaty of 1868, known as the Black Hills, consists of approximately 7,345,157 acres lying between the 43rd and 48th standard parallels east of the 104th meridian and west of the 103rd meridian and the forks of the Cheyenne River.

The area taken is described as follows:

> Beginning at the intersection of the 103rd meridian of west longitude with the northern boundary of the State of Nebraska, thence north along the 103rd meridian to the south fork of the Cheyenne River, then down the south fork to its junction with the north fork (Belle Fourche River), then up the north fork of the Cheyenne to the 103rd meridian, then north along the 103rd meridian to the 46th parallel of north latitude, then west along the 46th parallel to the 104th meridian, thence south along the 104th meridian to the northern boundary of the State of Nebraska, then east along the northern boundary of Nebraska to the point of beginning.

ARTICLE 1.

> The said parties hereby agree that the northern and western boundaries of the reservation defined by article 2 of the treaty between the United States and different tribes of Sioux Indians, concluded April 29, 1868, and proclaimed February 24, 1869, shall be as follows: The western bpundaries shall commence at the intersection of the one hundred and third meridian of

> longitude with the northern boundary of the State of Nebraska; thence north along said meridian to its intersection with the South Fork of the Cheyenne River; thence down said stream to its junction with the North Fork; thence up the North Fork of said Cheyenne River to the said one hundred and third meridian; thence north along said meridian to the South Branch of Cannon Ball River or Cedar Creek; and the northern boundary of their said reservation shall follow the said South Branch to its intersection with the main Cannon Ball River, and thence down the said main Cannon Ball River to the Missouri River; and the said Indians do hereby relinquish and cede to the United States all the territory lying outside the said reservation, as herein modified and described, including all privileges of hunting; and article 16 of said treaty is hereby abrogated.

The Santee Sioux Tribe of Nebraska was a signatory tribe to the 1868 Fort Laramie Treaty. Article 6 of the 1868 Fort Laramie Treaty was written into the treaty for the Santee Sioux Tribe of the Niobrara Reservation, it provided for a compromise between the position of the peace commissioners that no Indians could remain on the Niobrara Reservation unless they abandoned their tribal relations and became United States citizens and the Indians' determination to secure a permanent home for themselves without abandoning their traditional relationship with the Federal Government.

The 1868 Treaty has been held to be a substitute for an earlier, abbrogated treaty by which the Santee Sioux Tribe did cede land. Sioux Tribe vs. United States, 95 Ct. Cls. 72, 83 (1941). Because the 1868 Treaty was a substitute, the Santees were required to give to the United States a credit for the value of all payment under the 1868 Treaty when the Santees litigated claims under an earlier treaty. The 1922 credit, was in excess of $2,000,000. Medawakanton Indians vs. United States, 57 Ct. Cls. 357 (1922).

The case THE SIOUX TRIBE OF INDIANS CONSISTING OF THE SIOUX TRIBE OF THE ROSEBUD INDIAN RESERVATION IN THE STATE OF SOUTH DAKOTA; THE SIOUX TRIBE OF THE STANDING ROCK INDIAN RESERVATION IN THE STATE OF NORTH DAKOTA AND SOUTH DAKOTA; THE SIOUX TRIBE OF THE PINE RIDGE INDIAN RESERVATION IN THE STATE OF SOUTH DAKOTA; THE SIOUX TRIBE OF THE CHEYENNE RIVER INDIAN RESERVATION IN THE STATE OF SOUTH DAKOTA; THE SIOUX TRIBE OF THE CROW CREEK INDIAN RESERVATION IN THE STATE OF SOUTH DAKOTA; THE SIOUX TRIBE OF THE LOWER BRULE RESERVATION IN THE STATE OF SOUTH DAKOTA; THE SIOUX TRIBE OF THE SANTEE INDIAN RESERVATION IN THE STATE OF NEBRASKA; AND THE SIOUX TRIBE OF THE FORT PECK INDIAN RESERVATION IN THE STATE OF MONTANA, vs. THE UNITED STATES, 95 C. Cl. 72 (1941) was brought to recover the sum of $1,903,023.22 expended for the benefit of the Santee Sioux Tribe of Nebraska under the Fort Laramie Treaty of 1868, on the ground that the sums were set off against obligations under previous treaties. Hence the defendant, in effect did not expend such sums under the Fort Laramie Treaty of 1868.

The issue presented was whether under the terms of the act which granted jurisdiction, the plaintiffs were entitled to recover $1,903,023.22 heretofore paid to them by the defendant under the Fort Laramie Treaty of 1868 and subsequently charged off as an offset against other claims of the plaintiff litigated in the case of MEDAWAKANTON INDIANS et al., vs. UNITED STATES, 57 C. Cls. 357.

By the Treaty of September 29, 1837, (7 Stat. 538), the Sioux Nation of Indians ceded certain lands to the United States and the United States agreed to invest for the benefit of the Indians the sum of $300,000 and to pay interest thereon at the rate of not less than 5% forever.

By the Treaty of August 5, 1851 (10 Stat. 954) the defendant, as consideration for the cession of certain lands, established an additional trust fund in the sum of $1,160,000, (increased by the Senate by amendment to $1,229,000) with interest thereon at 5%, commencing July 1, 1852, to be paid annually over a period of fifty years, such fifty payments to discharge both principal and interest.

In the year 1862 an outbreak occurred among the Indians of Minnesota during which many white people were killed and property destroyed. Following the outbreak, Congress on February 16, 1863, abrogated and annulled all treaties theretofore made and entered into by certain tribes of Indians, including the Santee Sioux, insofar as said treaties or any of them, proported to impose any future obligations on the United States. All lands and rights of occupancy within the State of Minnesota, and all annuities and claims theretofor courted the said Indians, or any of them, were declared to be forfeited to the United States.

On April 29, 1868, the Sioux Indians, including the Santee Sioux, entered into a treaty of amity with the United States (15 Stat. 635). By the terms of this treaty, certain lands therein described were set apart for the Tribes of the Sioux Indians and the United States agreed to furnish the Indians certain monies, clothing, and articles of property and beneficial objects and facilities. It was also stipulated by Article 17 of such treaty that it should have the effect and should be construed "as abrogating and annulling all treaties and agreements heretofor entered into between the parties hereto, so far as treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this Treaty."

The Court went on to say that to permit the previous treaties and the Treaty of 1868 which was entered into in lieu thereof, and which contained a provision that payments under previous treaties were barred, to nevertheless run concurrently, and to give full payment under all treaties, would constitute double payment. But for the uprising in 1862, with the consequent cancellation of the previous treaties, the provisions for payment under the treaty of 1868 would probably never have been made. Hence, to authorize full payment under the revitalized previous treaties, plus full payment under the substituted treaty of 1868 covering the same period would be equivalent to allow any man to double recovery.

BLACK HILLS TAKING

In 1874, the Secretary of Interior established a commission known as the Special Sioux Commission, to negotiate with the Brule and Ogallala Sioux to abandon their rights under Articles XI and XVI of the 1868 Fort Laramie Treaty. The commission was only partially successful in its mission, obtaining from the Brules the surrender of their Article XI rights only, and obtaining no agreement at all from the Ogallalas.

In May of 1874, the Secretary of War directed Lieutenant Colonel George A. Custer to command an expedition into the Black Hills to explore the area. Reports as to the agricultural, mineral and grazing land involved in the subject area were also filed by Samuel D. Hinnan and Walter P. Jenney.

In May, 1875, a delegation of Sioux Chiefs and other leaders were brought to Washington to hear proposals concerning the purchase of the Black Hills by the United States and the extinguishment of various off-reservation hunting and fishing rights. After the members of the Sioux delegation returned to their agencies, an agreement was reached whereby the Sioux relinquished their remaining hunting rights in Nebraska in return for $25,000 in goods. This agreement was never ratified or enacted into law by Congress.

In June, 1875, the Secretary of Interior, acting under the instructions from President Grant appointed a commission to negotiate with the Sioux for the cession of the Black Hills and for the surrender of the Sioux's right to hunt in the Big Horn area in Southeastern Montana. This commission became known as the Allison Commission.

During September, 1875, the Allison Commission met with the Sioux in a grand council. It urged that the Sioux sell the Black Hills. The Sioux, realizing the great value of the Black Hills to the United States, offered to sell them to the United States for 70 million dollars, plus additional compensation for gold already mined. The commission, in return, offered to pay $400,000 dollars per year for the right to mine, grow livestock, and cultivate the soil in the Black Hills, or, in the alternative, to buy the hills outright for six million dollars. The Allison Commission reported its failure to the Secretary of Interior.

In November 1875, the Grant Administration began to change its policy toward the Black Hills. The President, with the concurrence of his Secretary of War and Secretary of Interior, decided that, although non-Indians were still forbidden from entering the hills, the army would no longer seek to enforce the law. The army would be removed from the Black Hills, and no further military opposition was to be offered to miners attempting to enter the hills.

The United States failed to keep unauthorized persons, including non-Indian prospectors and miners, from entering onto the Black Hills, and, at least after the Allison Commission failed to induce the Sioux to cede the Black Hills to the United States, adopted a policy and took specific actions which encouraged unauthorized persons to enter onto the subject tract. As a result of this policy and these actions many non-Indians entered the subject area, established towns, organized mining districts, filed and developed mining claims, and mined and removed gold from the Great Sioux Reservation. The Sioux have never received any compensation for the gold mined and removed prior to February 28, 1877. The Indian Claims Commission found that the gold mined from the subject tract prior to February 28, 1877, had a gross value of $2,250,000, and a value in the ground to plaintiffs of $450,000. The Indian Claims Commission rational was that the removal of gold from the Sioux Reservation was a direct and natural consequence of President Grant's orders and was an intentional governmental act.

In response to hostilities against whites and Indians of other tribes in the unceded Indian territory by small numbers of nonreservation Sioux, the Secretary of Interior, on December 3, 1875, instructed the Commissioner of Indian Affairs to direct agents at all agencies in Dakota and at Fort Peck to notify the Sioux in the Yellowstone and Powder River areas "that unless they move within the bounds of the reservation (and remain there) before the 31st of January next, they shall be deemed hostile, and treated accordingly by military force."

The bulk of the Sioux who were in the unceded territory during the winter of 1875-76 were hunting with the permission of their agents, as they had the right to do under Article XVI of the 1868 treaty. When they received notice of the order to return to the reservation, they replied that they would return in the spring after the hunt. The severity of the winter made it impossible for most of the Sioux to comply with the Secretary's order. Nonetheless, on February 1, 1876, the Secretary of the Interior notified the Secretary of War that his order had not been complied with, and that the Sioux were being turned over to the Army for appropriate military action.

On June 25, 1876, the Seventh Cavalry, under the command of George A. Custer, attempted a surprise attack upon an Indian encampment in the valley of the Little Big Horn River. The Sioux inflicted a crushing defeat on the Army killing 259 men.

Congress reacted by attaching the following rider to a one million dollar Sioux subsistence provision in the appropriations act enacted August 15, 1876, (19 Stat. 176, 192):

> "Provided, that none of said sums appropriated for the Sioux Indians shall be paid to any band thereof while said band is engaged in hostilities against the white people; and hereafter there shall be no appropriation made for the subsistence of said Indians, unless they shall first agree to relinquish all right and claim to any country outside the boundaries of the permanent reservation established by the treaty of eighteen hundred and sixty-eight for said Indians; and also so much of their said permanent reservation lies west of the one hundred and third meridian of longitude, and shall also grant right of way over said reservation to the country thus ceded for wagon or other roads."

In short this provision meant that unless the Sioux ceded the Black Hills to the United States, surrendering their right to hunt off the reservation, the United States would allow them to starve. Further, Congress requested the president appoint another Commission to negotiate with the Sioux for the cession of the Black Hills. This commission, headed by George Manypenny, arrived in the Sioux country in early September and commenced meetings with the head men of the various tribes. The members of the commission impressed upon the Indians that the United States no longer had any obligation to provide them with subsistence rations. The commissioners brought with them the text of a treaty that had been prepared in advance. The principal provisions of this treaty were that the Sioux would relinquish their rights to the Black Hills and other lands west of the one hundred and third meridian and their rights to hunt in the unceded territories to the north, in exchange for subsistence rations for as long as they would be needed to ensure the Sioux' survival. In setting out to obtain the tribes' agreement to this treaty, the commission ignored the stipulation of the Fort Laramie Treaty that any cession of the lands contained within the Great Sioux Reservation would have to be joined in by three-fourths of the adult males. Instead, the treaty was presented just to Sioux chiefs and their leading men. It was signed by only 10% of the adult male Sioux population.

Congress resolved the impasse by enacting the 1876 agreement into law as the Act of February 28, 1877 (1877 Act), 19 Stat. 254. The Act had the effect of abrogating the earlier Fort Laramie Treaty, and of implementing the terms of the Manypenny Commission's agreement with the Sioux leaders.

The passage of the 1877 Act legitimized the settlers' invasion of the Black Hills, but throughout the years has been regarded by the Sioux as a breach of this Nation's solemn obligation to reserve the Hills in perpetuity for occupation by the Indians.

COURT OF CLAIMS

Before the establishment of the Indian Claims Commission in 1946, tribes had no forum for pursuing treaty-based claims against the federal government absent congressional action authorizing litigation on behalf of individual tribes. The Court of Claims was expressly prohibited by law from entertaining suits based on treaties and the doctrine of sovereign immunity effectively barred many other tribal claims against the federal government. Thus it was necessary for Congress to pass special acts granting the Court of Claims jurisdiction to adjudicate specified tribal claims. Between 1836 and 1946 Congress enacted 142 such acts.

Dissatisfaction with case by case grants of jurisdiction was expressed as early as 1928. In 1946 Congress addressed the problem by enacting more comprehensive legislation for the adjudication of tribal claims against the federal government. The Indian Claims Commission Act created a unique forum for hearing and deciding such claims. The Commission was established in order to provide tribes with a forum having jurisdiction over claims against the United States. Congress authorized the Commission to hear, among other things, claims that the United States had taken Indian lands without compensation or purchasing Indian lands for less than adequate compensation. Indians could assert either recognized or aboriginal title in support of such claims. But, the Court of Claims is only given jurisdiction to award a monetary award. The Indian Claims Commission was initially given a term of ten years. This was extended several times. The final extension occurred in 1976 and provided that the Commission would continue to operate until September 30, 1978. The Act of October 8, 1976 provided that cases pending on that date would be transferred to the Court of Claims. The Court of Claims was abolished in 1982 and its jurisdiction was divided between the Claims Court and the Court of Appeals for the Federal Circuit. But, again the jurisdictional sections only authorized a payment for the illegal taking of property. No provision was made for the return of land.

Consequently, it is for this reason that we turn to Congress. It was the Congress of the United States that authorized the taking of the Black Hills in 1877. It was the Congress of the United States that established the Indian Claims Commission providing only a monetary settlement for the unconstitutional taking, and it is the United States Congress that has the authority to return the land to the Sioux Nation. Consequently, we have come full cycle. The land has been taken and now we ask that it be returned. It is unquestioned that the Black Hills are the aboriginal and recognized homeland of the Sioux Nation. That the Black Hills hold deep religious significance for the Sioux Nation and are central and indispensable to the full exercise of Sioux religion as well as the religion of certain other Indians. Further, the Sioux Nation views the Black Hills as an alienable and have never voluntarily surrendered the Black Hills.

Congress has resolved complex American Indian land title and religious issues by conveying title, as well as other forms of compensation, without restricting such resolution to monetary award.

Finally, it is in the interest of the United States to enter into a just and honorable Sioux Nation-Black Hills land settlement recognizing and re-affirming the United States domestic and international committments to the Sioux Nation self development, economic security and religious freedom by acknowledging the traditional and historical belief of the Sioux and other certain Indians in the sacred character of the earth and in the Black Hills in particular, as well as their religious rights to freely exercise such beliefs.

To this end, the Sioux Nation-Black Hills Act provides the following, to wit:

1. It transfers to the Sioux Nation that portion of the Great Sioux Reservation excluded from the reservation by the Act of February 28, 1877 presently held by the United States of America with certain exceptions. This is known as the re-established area.

2. It will not disturb privately held lands.

3. All lands in the re-established area shall remain equally accessible to all persons, both Sioux and non-Sioux, under such rules and regulations as the Sioux may from time to time establish and publish. Outstanding, such lands within the Sioux park which are traditionally religious or ceremonial sites shall be identified by the Sioux and shall be excluded from public access necessary to preserve their primary religious uses and integrity.

4. The lands are to be governed by Sioux National Council. This Council will be selected in accordance to a constitution approved by at least three-quarters of the respective tribes of the Sioux Nation.

5. In essence of this act recognizes the sovereignty of the Sioux Nation and allows the Sioux Nation to govern the lands conveyed pursuant to this act and provide for compensation for the loss of the use of its land from 1877.

CONCLUSION

Finally, it is the purpose of the Constitution of the United States that full value be given for any property taken. It is undeniably apparent in this matter that full value can only mean return of the land and compensation for its use. Religious, cultural and historical significance have no monies worth. In conclusion we request the Congress of the United States of America right the wrongs of the past which led the Supreme Court of the United States to state:

"A more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history".

Richard L. Kitto

Richard L. Kitto
For the Santee Sioux
Tribe of Nebraska

RESOLUTION OF THE SANTEE SIOUX TRIBE OF NEBRASKA

Resolution No. 86-17

WHEREAS, the Santee Sioux Tribe of Nebraska is a federally recognized Indian Tribe organized pursuant to the Act of June 18, 1934, (25 U.S.C. 476), as amended, and

WHEREAS, the Santee Sioux Tribe of Nebraska was a signatory tribe to the Treaty of Fort Laramie with the Sioux of April 29, 1868, ratified on February 16, 1869 and proclaimed February 24, 1869, (15 Stat. 635, 640), and

WHEREAS, the Santee Sioux Tribe of Nebraska has participated in the litigation regarding the Black Hills since said litigation was initiated, and

WHEREAS, the Santee Sioux Tribe of Nebraska supports the return of the lands taken and just compensation for the use of lands taken pursuant to the Act of February 28, 1877, (19 Stat. 254).

NOW THEREFORE BE IT RESOLVED that the Santee Sioux Tribe of Nebraska request the United States Congress enact S. 1453 into law returning lands to the Great Sioux Nation and compensating the Great Sioux Nation for the use and occupancy of said lands from February 28, 1877.

CERTIFICATION

This is to certify that the foregoing Resolution was considered at a meeting of the Tribal Council of the Santee Sioux Tribe of Nebraska held on the 10th day of July, 1986, and was adopted by a vote of 10 for; 0 against and 1 not voting.

Dated this 11th day of July, 1986.

Roger Trudell
Chairman, Santee Sioux Tribe of
Nebraska

ATTEST:

Donald La Pointe
Donald LaPointe
Secretary
Santee Sioux Tribe of Nebraska

PREPARED STATEMENT OF GERALD M. CLIFFORD

Mr. Chairman, on behalf of the Black Hills Steering Committee, I wish to express our appreciation for this opportunity to present testimony, on S.1453 the "Sioux Nation Black Hills Act", to the Senate Select Committee on Indian Affairs. My name is Gerald M. Clifford and I am the Coordinator of the Black Hills Steering Committee. We are here today to express our wholehearted support for S.1453 and urge the Senate Select Committee on Indian Affairs to favorably report out the bill, and work for its adoption and enactment into law.

The Black Hills Steering Committee was organized, and is operated, to coordinate the unified effort by the member tribes to reacquire lands in the Black Hills and to compensation for the loss of the use of such lands based upon the Treaty of September 15, 1851 and the Treaty of April 29, 1868, between the sovereign bands of the Great Sioux Nation and the United States. These federally recognized or organized tribes, who are successors in interest to the sovereign bands of the Great Sioux Nation, are: Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Lower Brule Sioux Tribe, Oglala Sioux Tribe, Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Santee Sioux Tribe of Nebraska, and Sioux Tribe of the Fort Peck Reservation.

The Black Hills Steering Committee is charged with the responsibility for developing a legislative proposal for seeking the return of lands in the Black Hills and working towards the adoption of the legislation. This legislation was developed over a two and one-half year period in twenty-seven formal meetings of the Steering Committee. Additionally, there were numerous sessions with working sub-committees and public readings before the respective Tribal Councils. In holding consultation meetings with the user community, we met with members of the Rapid City Chamber of Commerce, representatives of the various user community groups, the Black Hills Area Association of County Commissions and Elected Officials, and the Black Hills Chapter of the Municipal League. A delegation from the Steering Committee provided a briefing session with the Governor of South Dakota.

We took great care to insure that the legislation was fair and balanced to the user community, and many of their concerns were incorporated into the legislation. To this end, we feel that the enactment of S.1453 will have no adverse impact on the user community in the Black Hills taking area. It will have a positive impact for such community in the Black Hills, and, indeed, for the entire State of South Dakota. We took great care also to insure that Lakota philosophical perspectives were incorporated into the legislation.

We have organized this testimony to address each section and sub-section of the bill to share with the Committee the thoughts, spirit and intentions of the Black Hills Steering Committee and the member tribes in developing the legislation.

Section 1

This section sets forth the purposes of the bill. The Purposes give a good overview of the structure and contents of the legislation. It will be useful for the reader to gain such an overview when reviewing the bill since it is some 27 pages long and filled with detailed technical language.

The first purpose listed is to reaffirm the boundaries of the Great Sioux Reservation . The boundaries refered to are specified in Section 4 of the bill and are the boundaries that contain the land excluded from the Great Sioux Reservation by the Act of February 28, 1877. If the reader will refer to the map identified as Addendum 2 attached to this testimony the boundaries are approximately represented by the dotted lines. This will also give the reader a visual understanding of the land area under discussion in this bill.

The second purpose listed is to convey federally held lands in the Black Hills to the Sioux Nation. The term"Black Hills" in this section refers to the entire area taken from the Sioux by the Act of February 28, 1877. Thus the purpose of the legislation is to convey all the federally held lands withing such area to the Sioux.

The implication of returning such lands to the Sioux Nation is that such Nation will have to have an organization, sturcture, a constitution and law. Appropriate sections of the bill deal with such issues.

A third purpose listed is to provide for the economic development, resource protection and self-determination of the Sioux nation. The bill has a section which provides compensation for the loss of the use of the land from the time it was taken until the present. Such section is structured to provide the basis for long range economic developent for the Sioux Nation and each of the respective Tribes. The traditional Lakota principle of "respect for the earth" is included to insure that the resources are protected. In developing the purpose of "self determination" of the Sioux Nation we are proposing a different way of implementing the "Government to Government" relationship with the United States. We are proposing that the land be conveyed to the Sioux Nation in fee simple and that such lands be exempt from taxation by the United States or any State or subdivision of a State. This will provide the protection that we need to prevent land alienation and will also free us of the paternalistic burden of the Bureau of Indian Affairs and allow greater degreee of "self-determination" for the Sioux Nation.

The remaining three purposes deal with the sacred nature of the Black Hills themselves, the free exercise of the religion of the Lakota (I use Lakota in its generic sense and thus include also the Dakota and Nakota) and the responsibility that we have for other living things. Appropriate sections of the bill deal with these issues.

In summary then S. 1453 deals with returning lands that are held by the federal government from the area taken from the Sioux in 1877, and setting out the frame work for the structure of the government that holds such lands. It proposes a different way for the tribe to hold the land such that it is not alienated and provides for a greated degree of self-determination. And finally removes the barriers for the free exercise of traditional religion and belief.

Sec. 2 Findings.

(1) The relationship between the Lakota and the Black Hills traces back to the Legend of Origin. Our oral tradition tells that when Maka (the earth) was created all of her was great, but her heart was special and it stood first among all places of Maka. There are numerous legends which speak of the Black Hills as holding a special and spiritual relationship to the Lakota. The oral tradition holds that the Sacred Pipe of the Lakota was first given in the area of what is now called Devil's Tower in the Bear Lodge Mountains of the Black Hills. The Seven Sacred Rites of the Lakota all have a relationship to various points in the Black Hills.

Individuals affilliated with the Black Hills Steering Committee have been conducting primary research on oral traditions and cross-referencing these legends with accepted scientific research, and they have found that the legends of the Lakota are geologically and biologically appropriate. It was the testimony of these same individuals that was accepted in the Yellow Thunder Camp Permit trial and supported the "Finding of Fact" that "the Black Hills are central and indispensible to the practice of Lakota religion". (United States v. Means, Slip Opinion Nos. 81-5131 & 5135 (D.S.D., Jan. 9, 1985), pp.9-11)

A study of Lakota stellar knowledge (constellations) by Sinte Gleska College suggests a Lakota presense in the Black Hills as early as 1,000 B.C. to 1,500 B.C. The Lakota have a constellation of the mammoth and there is a site in the Black

Hills which corresponds to the constellation that is called the mammoth. This suggests the presense of the Lakota in the Black Hills during the ice age.

The early records of the French explorers show that many place names are Lakota written in French orthagraphy. One example of this is the Niobrara river - the Lakota name for this place is Yamnioprara. The pronouncations in both French and Lakota are identical, and the translation from the Lakota is "Three horns surrounded by wavy plate". It is not incidental that fossil-remains of the triceratops were found near the northern headwaters of the Niobrara river.

The body of Lakota stellar knowledge and the oral tradition which places the Black Hills in the Origin stories of the Lakota establish the aboriginal presence of the Sioux in the Black Hills and establish beyond a doubt the deep religious significance that this land holds for the Sioux Nation.

(2) We have appended copies of territorial maps from the Treaties of September 15, 1851 (11 Stat. 749) and April 29, 1868 (15 Stat. 635), to our statement. These maps show that the Black Hills are a definite part of these territories.

(3) The written record on the taking of the Black Hills clearly documents that duplicity played a major role and that the Sioux were under extreme duress. The historical record, as found summarized in Supreme Court decision [No. 79-639], shows that the judicial avenues made available to the Sioux, by the Congress, have not included the return of lands. The member tribes of the Sioux Nation are united in their resolution not to accept money in exchange for extinguishment of title to the Black Hills.

The right to practice religion according to one's belief and custom is a Constitutional right theoretically afforded to all Americans. It has been shown in a court of this nation that the right of the Lakota to practice traditional religion in the Black Hills area has been systematically hampered. This restrains free exercise rights guaranteed under the Constitution and, in fact, borders on establishment of religion. Because the prevailing view of what religion should be is based upon Judeo-Christian philosophy and theology, there has been a bias built into the implementation of protections of the Free Exercise Right that borders on the establishment of Juedo-Christian religion.

We affirm that the Black Hills are central and indespensible to the practice of Lakota religion. Senate 1453, in addition to some measure of justice for the theft of our land, will provide us with the opportunity to freely exercise our right to practice Lakota religion. While our theological and philosophical beliefs are different from Judeo-Christian beliefs - we firmly believe that the Constitution extends to us. A rhetorical question is in order here - "If the Constitution guarantees the free exercise of religion in this country - why was it necessary for Congress to pass legislation, in 1978, entitled 'The American Indian Freedom of Religion Act'?"

S.1453 does not attempt to address the multitude of impedements to the free exercise of religion for the Sioux or other Native Americans. It does, however, remove barriers for the free exercise of Lakota religion in a land that is central and indispensible for the practice of our religion.

(4) The history of the 19th century Sioux is rich with familiar names of individuals and places, all of which we will not recount in this testimony. It is sufficient to say that all of this history points to the Supreme Court's cite that "[a] more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history". It is the duty of Congress to correct wrongs where they exist. It is to address the wrongs committed against the Sioux that the "Sioux Nation Black Hills Act" must be adopted and enacted into law.

(5) Again, the Supreme Court's decision, as well as the entire record of judicial proceedings, clearly shows that the Sioux Nation was not afforded a judicial remedy for seeking restoration of illegally taken lands. The laws of this Nation do not provide the courts with the authority to return lands illegally taken from Indian Tribes. The Congress of the United States holds to itself such authority. We think, therefore, that it is incumbent upon Congress to take action to restore such lands. S.1453 provides Congress with such an alternative for restoration of lands by transfering federal lands within the 1877 taking area to the Sioux Nation.

(6) The case of "Oglala Sioux Tribe of the Pine Ridge Indian Reservation v. United States", 650 F.2d 140 (8th Cir. 1981), cert denied 455 U.S. 907, illustrated that Congress has not provided the courts with the jurisdiction to return land.

(7) The award to the Sioux Nation in the Black Hills case, and its amount, is a matter of public record and the transfer of monies was governed by the Claims Distribution Act.

(8) The entire history of judicial proceedings shows that the courts are not provided with authority to return illegally taken Indian lands in the Black Hills.

(9) The Sioux Tribes, which are successors in interest to the sovereign bands of the Great Sioux Nation, are united in their rejection of the monetary award. For us to accept the award will mean that we violate a theologial and moral imperative that "we cannot sell our mother". To accept the claims award for the extinguishment of title to the Black Hills lands will mean that we have sold our mother - which we will never do. We are committed to continue the struggle for these lands which hold a special relationship for us.

(10) The Black Hills are central and indispensible to the practice of Lakota religion, and the rights of religious freedom guaranteed under First Amendment of the United States Constitution must extend to the Sioux Nation. To accept money in exchange for the right to freely practice our religion would be a gross violation of our religion, culture and who we are as a people. Lakota culture and oral tradition teaches us that we must weigh the impact of our actions for seven generations in the future. To accept an

award for extinguishment of lands and the right to freely practice our religion in the Black Hills will be to deny our children, grandchildren, and their grandchildren of their religion and birthright - we do not have the authority to make such a decision for those yet unborn. It must also be remembered that during many of the 109 years that our struggle, for return of lands in the Black Hills and the right to freely practice religion, occured while the Federal Government prohibited Indian religious and cultural practices.

(11) The record of actions by the different bands of the Sioux Nation to press their claim to lands in the Black Hills can be found throughout the files of Congressional and Executive offices, and it is clear that the struggle for the return of lands has been consistent for the past 109 years.

(12) The Black Hills are the religious center of our first and real mother - the earth - and she also provided for our material needs. A tremendous amount of resources have been removed from the Black Hills over the past 109 years, resources that were confiscated from the Sioux Nation. The Smithsonian Museum has a small exhibit showing that, through 1980, 36 million ounces of gold were extracted from the Homestake Gold Mine alone. Figuring an exchange rate of $500.00 per ounce, that gold is worth some $18,000,000,000.00.

(13) There were many meetings, between the Sioux Nation and the Executive Branch, in the consistent efforts to seek recovery of lands and a just resolution to the issue of the taking of lands in the Black Hills. These meetings are a matter of public record.

(14) There are cases where the Congress took action to resolve complex American Indian issues without limiting such remedies to monetary compensation and has restored lands as a part of the resolution. The Sioux Nation Black Hills Act is a tightly crafted legislative proposal which is based upon a unique record. It is only in the Black Hills case that the Supreme Court of the United States has issued such a strong opinion and laid the responsibility for unconstitutional actions on the door of Congress. The Congress now has the responsibility to resolve the Black Hills issue. What the Sioux Tribes are requesting in S.1453, the Sioux Nation Black Hills Act, is well within the authority of the Congress.

(15) When the United States says that it, and all nations of the world, must subscribe to the principle of justice, then the United States must begin that practice at home. We are asking the Congress to take the courageous step for Sioux Nation self-determination, economic security, religious freedom, by enacting the Sioux Nation Black Hills Act.

Sec. 3. Definitions.

We feel that the definitions are proper and adequate, other than the technical amendment of reference under (8). This should be "The term "re-established area" means the land declared to be a reservation for the Sioux Nation under section 4", replacing the present text of "section 3".

Sec. 4. Re-established Area.

In drafting this section, the language from the Treaty of April 29, 1868 (15 Stat. 635) was used for the western boundary and Act of February 28, 1877 was used for the northern, eastern and southern boundaries. The text of the territory was arranged in such a manner so as to be consistent with the Lakota principle of beginning in the west and moving in a clock-wise direction. Due to the following, we think several technical corrections are in order: the one hundred and fourth degree of longitude west from Greenwich is slightly east of the Wyoming border with South Dakota; where the same meridian intercepts the forty-sixth parallel of north latitude is slightly north of the North Dakota border with South Dakota border; eastern boundary of the re-established area on the forks of the Cheyenne River are cited do not specify where the exact line of boundary is located.

Accordingly, we recommend the following technical amendment:

"The western boundary of the land commences at the intersection of the western boundary of the State of South Dakota with the northern boundary of the State of Nebraska; thence north on the western boundary of the State of South Dakota to a point where it intercepts the northern boundary of the State of South Dakota; thence due east along said boundary to a point where the one hundred third degree of longitude west from Greenwich intercepts the same; thence due south on the said meridian to its intersection with the east bank of the North Fork of the Cheyenne River; thence down said east bank to its junction with the east bank of the South Fork of said Cheyenne River to the said one hundred and third meridian; thence south along said meridian to the intersection with the northern boundray of the State of Nebraska; thence west on such northern boundary of the State of Nebraska to the place of beginning."

Sec. 5. Re-conveyance of Lands.

We feel the procedure and process for re-conveyance of lands, as set forth in this section, is appropriate. The affected agencies of the Federal Government have recently completed "Use Plans" and "Environmental Impact Statements" and currently have all information requested in this section readily available. The agencies will not, therefore, be unduly burdened by conducting an up-dating their data base and compiling a survey to identify and inventory holdings within the re-established area.

The Black Hills provided for our spiritual well-being as well as many material needs. The principles incorporated into the Sioux Nation Black Hills Act, are directed toward self-sufficiency and self-determination of the Sioux Nation.

The concept of the Sioux Nation holding lands, mineral estates, and water rights in fee simple, rather than the Federal Government holding such lands in trust for us, is an essential step in the direction of self-determination.

Indian Tribes have had to fight a constant battle to keep their land base intact. The Federal Government, as trustee, has been woefully derelect in protecting from alienation. The statistics of Indian trust land alienation from the time of the Indian Allotment Act to the present bears witness to such derelection.

This section of the bill that calls for the land to be transferred in fee simple has a companion section that is necessary for the protection from land alienation that we seek. Section 7 of the bill holds such lands exempt from taxation by the United States or any State or subdivision of any State. The two sections are necessary for the protection from alienation and self-determination.

Further, it is our desire that the management of lands in the re-established area not be a continuing, and large, financial burden upon the Federal Government. We understand that self-determination requires responsibility on our part and have, therefore, set forth the proposal to hold the lands in the Black Hills taking area in fee simple.

None of the rights, reservations, easements, leases, permits, agreements, and contracts that exist under the public lands laws will be affected by the conveyance. Indeed, it was the specific desire of the Tribes that the conveyance of the re-established area not have an adverse impact on the user community.

We feel that Mount Rushmore National Memorial should remain the property of the United States and continue to be operated by the Federal Government. We feel it is proper to provide the Sioux Nation with first preference in bidding for the operation of the concessions at the Memorial. The Oglala Sioux Tribe has a similar preferential concession with the Badlands National Park at Cedar Pass which is professionally managed, profitable, employs many local residents and increased Indian hiring, and whose profits allow the Tribe to operate and maintain large buffalo and elk herds.

Sec. 6. Water Rights.

The cites, in the this section, of 4(b)(2), 4(a)(2), and 4(b)(1) should be corrected to 5(b)(2), 5(a)(2), and 5(b)(1). We feel that the proper management and operation of the Black Hills requires the language in this section. We also feel very strongly that the Sioux Nation must have the sole and exclusive jurisdiction to regulate the use and allocation of such waters. The principle of proper and responsible management of Black Hills lands requires the authority to regulate and allocate water resources. Again, any valid existing appropriation or reservation would not be effected by this section.

Sec. 7. Exemption From Taxation and Condemnation

Given the historical record of the taking of the Black Hills by the Congress and the loss of tremendous amounts of reservation acreage through the "forced fee patent" process, we feel this section is necessary to protect the Sioux Nation from loss of lands through taxation and arbitrary condemnation of lands without our consent. It is our concern that we have the legislative protection from taxation, of the Sioux Nation's lands within the re-established area, by the United States, any State, or sub-division of any State. This is prudent and does not adversely impact any of above cited governments as they presently do not have the authority to levy and collect taxes on the lands subject to reconveyence.

In order for the Sioux Nation to manage the Black Hills in accordance with a comprehensive land use plan, which insures the proper management and use of reconveyed lands in a manner consistent with the Lakota principle of "respect for the earth", resouce conservation and accepted resource management practices, its right to consent must preserved.

Sec. 8. Status of Private Lands.

The position of the Sioux Tribes, in developing this legislative proposal, was to ask Congress to restore those lands, mineral estates, and water rights that Congress could, indeed, return and not to adversely impact the landowners of the Black Hills area. We feel strongly that the Sioux Nation must have the right to purchase any private lands or to receive title to such lands by divise, gift, exchange, or other transfer. We do not intend to imply, when using the term "other transfer", that the Sioux Nation would arbitrarily condemn lands in order to acquire them, but rather to cover any voluntary and innovative transfers.

The sub-section of a right of first refusal to privately held lands within the area described in section 11(b) and (c) are specifically limited to religious or ceremonial sites and the wildlife and wilderness sanctuaries. We feel that it is fair and reasonable to have this right, and our present reviews of private land holdings show that impact to private landowners under this sub-section will be minimal. Further, as Lakota people, we are obligated by our culture and religion to protect religious and ceremonial sites from desacration, as well as provide for the well-being of our relatives the other children of the earth.

Sec. 9. Exchange of Lands

The consolidation of Sioux Nation holdings, through the exchange of state school lands within the re-established area, will be beneficial to both the affected states and the Sioux Nation. We feel the authority, procedure, and process provided to the Secretaries is proper and appropriate for implementing this section.

The area known as Bear Butte, presently a South Dakota State Park, is spiritually significant site to the Lakota and we feel it should be exchanged by the Secretaries so it may be included in the re-conveyed lands.

Sec. 10. Compensation.

(a) The Sioux Tribes are united in their position of rejecting compensation for extinguishment of title for the Black Hills. However, it is reasonable that they should be compensated for the loss of the use of their lands from 1877 forward. It was the Congress that established the law, by which funds are released to a tribe or tribes upon an award by the court, and Congress can now redirect those funds so they are for compensation for the loss of the use of our lands. It is the desire of the tribes that the Sioux Nation Black Hills Act not impact the Federal Government's budget - these are funds previously provided through the claims award authority and, therefore, will not constitute an appropriation of new funds.

It is the wish of the Sioux Tribes that any income accruing from the legislative settlement of the Black Hills taking issue be available, and for the benefit, of the Sioux Nation and its future generations. Accordingly, every effort was taken to insure the strongest possible language on protecting any funds through the establishment of a permanent trust to be held and maintained in perpetuity, and never to be liquidated. These funds would, then, be for there for our future generations.

Prior to the reservation era, the Black Hills provided for us spiritually and materially. It is the desire of the tribes that we can once more regain this relationship. The allocation of income, from the trust to the various respective governments, would allow the tribes for the first time to engage in long-range economic and social development programs to improve the economics and environments of both their specific reservations and contribute to the states' economy as well. This will also allow the tribes, again for the first time, to truly become integral partners in improving the economy of their regions.

We view this section as being the foundation for Sioux Nation and tribal economic self-determination and for providing the tribes with the basis for assuming the responsibility for providing for the general welfare of their members. For too long we have had the Federal Government delivering services in lieu of tribal governmental responsibility, and we feel, with the enactment of this legislation, we will finally be in a position to provide those govenmental services and economic development opportunities for our members.

(b)&(c) It is the underlying basis of the Sioux Nation Black Hills Act that the prior conveyance of some lands to private persons will not be disturbed or effected by this legislation. The holdings of the Federal Government are somewhat less than the 7.3 million acres originally in the Black Hills taking area. Accordingly, we feel it is reasonable and fair that Congress provide the Sioux Nation with some additional acreage outside of the re-established area. These additional lands and sub-surface mineral estates, lying outside the 1877 taking area of the Great Sioux Reservation but within the area described Articles 11 and 16 of the Treaty of April 29, 1868, will serve as a partial restitution for the vast amount of lands that were taken from the Sioux Nation.

(d) In order to insure that the lands within the Black Hills remain accessible to the general public, we feel it is proper for the Federal Government to continue participation in the financial responsibility for the operation and maintenance of the Park and Forest. You will find that the figure of five percent of the Secretarial funding level is very reasonable particularly when weighed against past and current budgets, and in view of the additions to the Park holdings.

Sec. 11. Sioux Park.
(a) It is our plan that present park holdings and additional targeted lands will be held as a Sioux Park, with emphasis on the protection, preservation and conservation of the natural environment for all people. The Sioux Park will remain equally accessible to all peoples, both Sioux and non-Sioux. We intend to institute a review process, which incorporates consultation, to establish rules and regulations for the operation and management of the Sioux Park. We will publish those rules and regulations in much the same manner now used by local governments.

(b) The pre-reservation practice of the Lakota was to honor and protect the religious and ceremonial integrity of sites and we will re-institute this standard. Where necessary, we anticipate that the general public will have restricted or limited access to some locations. There are areas of the Black Hills where our Sacred Ceremonies of the Pipe were given to our people, we feel it is not unreasonable to restrict access to these sites or to limit access when sacred ceremonies are being performed.

Our oral tradition likens the Black Hills to the buffalo (American Bison), everything we needed for survival could be obtained from the buffalo, the Black Hills are the Heart of Everything That Is and the religious/ceremonial sites are the heart of the buffalo. We are also taught that we must respect these sites and preserve them for the coming generations.

(c) Our origin legend tells us that the earth has four children and that we must respect our relatives among the growing and moving things, the winged, the four-legged, and the other two-legged - the bear. We are committed to the principle of setting areas aside for those of our relatives which have a special sacred relationship to us. We must also have the right to exclude those areas from public access tohe extent necessary to provide sanctuary. At present, there is only one wilderness area within the Black Hills - the Black Elk Wilderness - and we feel that there are some other smaller area which are suitable for wilderness and wildlife sanctuaries.

(d) Any religious and ceremonial sites outside of the re-established area, acquired under section 10(b), including Devils Tower and Inyan Kara Mountain, will become a part of the Sioux Park. This will allow the religious and ceremonial sites to be treated with a high standard of protection, preservation, and conservation of the natural environment, while assuring the primary integrity of such sites.

Oral tradition tells that the sacred pipe was brought to the Lakota at the Bear Lodge. One of the names for the site now called Devils Tower is the "Mato tipi ta cannupa wakan paha" -"Bear Lodge's Sacred Pipe Mountain". We say that what happens in the heavens happens on earth in the same way and we have a series of stellar patterns, or constellations, called the "Black Hills Sacred Ceremonies of Spring" that are land maps, appointment calendars, symbolic ceremonies. These star patterns chart movement across the Black Hills ending with the Sun Dance at Devils Tower on the summer solstice.

Inyan Kara Mountain is also a stellar pattern on this map and is spiritually significant site to Lakota people. Inyan Kara is also tied to our story of the creation of the race track, or Spearfish formation, around the Black Hills. We feel it is very important that we be able to protect and preserve those site which have a special relationship to our religion, and which are necessary for our sacred ceremonies.

The Black Hills are an isolated, non-glaciated group of granite mountains which date back some six (6) billion years, long before the demarcation of state boundaries, therefore some thirty percent (30%) of the Black Hills are located in Wyoming.

(e) There are currently a number os restricted use lands within the holdings of the Forest Service, which we feel would be better managed and protected under the Sioux Park. Among these are the Black Elk Wilderness, where Harney Peak is located. Each of the restricted use areas were established to protect certain natural resources and we intend to continue protecting those resources so that future generations may also know and enjoy them.

(f) In determining that all lands in the Sioux Park would remain in the state of use or development they were committed to at the effective date of the Act, it was the intent of the Tribes that a present wilderness area would always remain a wilderness area, natural areas would always remain natural areas, and so forth. It was not the intent to inhibit rational management of these areas, but rather to protect them from resource exploitation and potential damage.

We think it is important to build upon the record of protecting the natural environment of the Black Hills, and this sub-section will provide us with the opportunity to insure the integrity and beauty of these restricted use areas for all people and particularly for future generations.

(g) We feel, and it has been our experience, that any change in management should be accomplished through a transition period. We think the five (5) year term provided for in this sub-section is reasonable. During this term, the Sioux Nation will have had the time to train and place its employees and it will minimize the impact of transition. It will also also those current employees of the Park Service, who do not wish to continue employment with the Sioux Nation, adequate opportunity to seek transfers elsewhere.

(h) We feel it will be to the benefit of any current Federal employee to have the option to work for the Sioux Nation while continuing to pay into their Civil Service benefits packages. We anticipate this will not unduly impact the

Federal Government's recordkeeping and feel it is necessary to protect the rights of employees. It was the desire of the Tribes that every step be taken, in the effort to have lands within the Black Hills restored to the Sioux Nation, to insure that Park Service employees be treated fairly and reasonably while meeting our primary goals and objectives.

Sec. 12. Black HIlls Sioux Forest.

(a) The principle of "respect for the earth" comes from the oral traditions of the Lakota and must govern management of the most special place on earth for us. We say that the earth is our mother and we must treat her with well that we, and her other children, may live well altogether. It is the intent of the Sioux Tribes that we will use this principle in developing management strategies and procedures for the Black Hills.

We feel that a transition period of five (5) years with the Forest Service is reasonable. This joint management transition will be negotiated to the benefit of both the Forest Service and the Sioux Nation. Any use which conflicts with the principle of "respect for the earth" will be identified and where any valid existing right is not violated, that use will be modified or such authorization will be withdrawn. This is prudent management and the Sioux Nation is entitled to have the authority to prudently manage and operate the Black Hills lands.

(b) This sub-section will provide current employees with protection of their benefits, should they desire to work directly for the Sioux Nation.

(c) We feel the restriction of allocation of rents, roalties, fees, and any income realized from the Black Hills Sioux Forest are reasonable and beneficial to the area in general and to the Tribes.

(d) The inclusion of those Federal holdings under the Bureau of Land Management or designated as National Grasslands under the Black Hills Sioux Forest will allow the Sioux Nation to consolidate and better manage these complementary natural resources in a prudent manner.

Sec. 13. The Sioux National ~~Council~~

(a) It is a reasonable management principle that there be a specific organizational entity to manage and govern the re-established area. This entity would have those authorities granted to it by the respective member tribes of the Sioux Nation. We feel it is reasonable that the restrictions of absolutely prohibiting the sale or disposal of any lands or water rights must be a part of this legislation. The requirement of the consent of at least three-quarters of the adult males, for selling or disposing any lands, is a part of our tradition and also language from the 1868 Treaty.

(b) Every governmental entity must have a judicial process to review the lawfulness of its actions and we strongly feel that the Sioux Nation must have its court or courts.

Sec. 14. Interim Management Board.

During the three (3) year period that a constitution is being developed there is need to have an organizational entity which can manage the re-established. The authority provided within this section is reasonable. It also allows the Tribes themselves to determine the process for appointment and the individuals who will represent it during this interim period. There was strong interest that members of Treaty Councils be provided with the opportunity to participate in this activity.

Sec. 15. Joint Powers Agreements.

The present relationship between tribal governments provides the Secretary of the Interior with the authority and responsiblity approve any contracts and agreements entered into by those tribal govenments. We feel that it is proper for the Sioux Nation to have the authority to enter into any contracts and agreements which are necessary to carry out its responsibilities under this Act. This authority is right and prudent, and will not be a burden upon the federal government.

Sec. 16. Existing Access; Mineral Leases; Grazing Permits; Timber Leases; Permits, Contracts.

(a),(b),(c)&(d) These sub-sections provide that nothing in this Act shall deprive any person or government of any valid existing right of use or possession of several categories of activity currently in practice in the Black Hills. We feel this is prudent and reasonable. It was with careful consideration, and in consultation with the user community, that every effort to insure that the user community of the Black Hills would not be adversely impacted by this legislation. We do feel that continued uses within the re-established area, after expiration, termination, or relinquishment of valid existing rights, must be under the rules and regulations of the Sioux Nation.

(e) It is the strong desire that the restoration of lands within the re-established area to the Sioux Nation not have an adverse impact on the user community. Accordingly, this sub-section provides the authority to pay twenty-five percent (25%) of timber permits, leases or contracts receipts to county governments, within which the lands from which the fees are derived are located. We feel this will allow the county governments to receive a source of income in lieu of taxes for their governmental uses, and it is reasonable. We feel the provision for joint powers agreements for public expenditures, after the initial five years, must be a part of this legislation to insure that the Sioux Nation and county governments complement each other's services.

Sec. 17. Hunting and Fishing.

We feel that the principles of prudent resources management, conservation, protection, and the Lakota principle of "respect for the earth" require that the Sioux Nation have exclusive jurisdiction to regulate hunting and fishing on all conveyed lands, lakes and streams within the re-established area.

Sec. 18. Individual Settlement in the Re-established Area.
It is the tradition of the Lakota that any settlement or use of territories be according to standards which protected and respected those areas. The development of a comprehensive land use plan which insures the proper management and use of lands consistent with the Lakota principle of "respect for the earth", resource conservation and accepted resource management practices is in keeping with our traditions. We feel our members should be allowed the opportunity to reside in the Black Hills, and that such residency must comply with our traditions. It is not the intent of the Sioux Tribes that the Black Hills become a "squatters haven" and this section will insure that proper management does exist according to our traditions.

Sec. 19. Effect on Subsisting Treaties.
It is the intent of this legislation to restore those federal lands within the Black Hills taking area to the Sioux Nation and not to address other treaty or claims issues. Any treaties, to the extent not inconsistent with this Act, would continue in full force and effect, as would any other claims which the Sioux Nation or its bands may have against the United States. There are some claims of the Sioux Nation or its bands which are still in the judicial process, and it is our concern that they not be prejudiced or otherwise effected before the court process is completed.

Sec. 20. Inconsistent Laws.
The Sioux Nation Black Hills Act provides for a change from the standard relationship between tribal governments and the Federal Government. We feel, with this legislation, the Sioux Nation will exercise the authority and assume the responsibility for its actions - authorities and responsibilities currently provided by the Federal Government in lieu of tribal responsibility. Accordingly, it is reasonable and prudent that all laws of the United States which are inconsistent with the Act be superceded, including those laws generally applicable to "Indians".

Sec. 21. Jurisdiction.
(a)&(b) We feel that the present procedure for treatment and prosecution non-Indians, within the re-established area, who commit a crime under 18 U.S.C. 1153 should continue until such time as the Sioux Nation and Congress agree that the Sioux Nation may reassume unrestricted criminal jurisdiction over "major crimes" committed by non-Indians. We think that these two sub-sections will provide the necessary authority to address the issues of jurisdiction in the re-established area at the time of conveyance, while providing the authority for reassupmtion of unrestricted criminal jurisdiction over non-Indians at a future date.
(c) We feel that all persons within the jurisdiction of the Sioux Nation must have the right to bring an action in our

courts. This is reasonable and, further, it provides a proper avenue to settle issues for all effected persons.

Our traditional form of government provided that all persons could address the Council of Deciders and offer their opinions, comments, criticisms, and advice. Therefore, it is very much within our traditions to provide all persons, residing with the re-established area, the right to petition and address the National Council. Our traditional form of government was by the concensus of all effected and/or participating persons, and certainly, and residents must have a forum to participate in this process of concensus.

Sec. 22. Extinguishment of Claims.

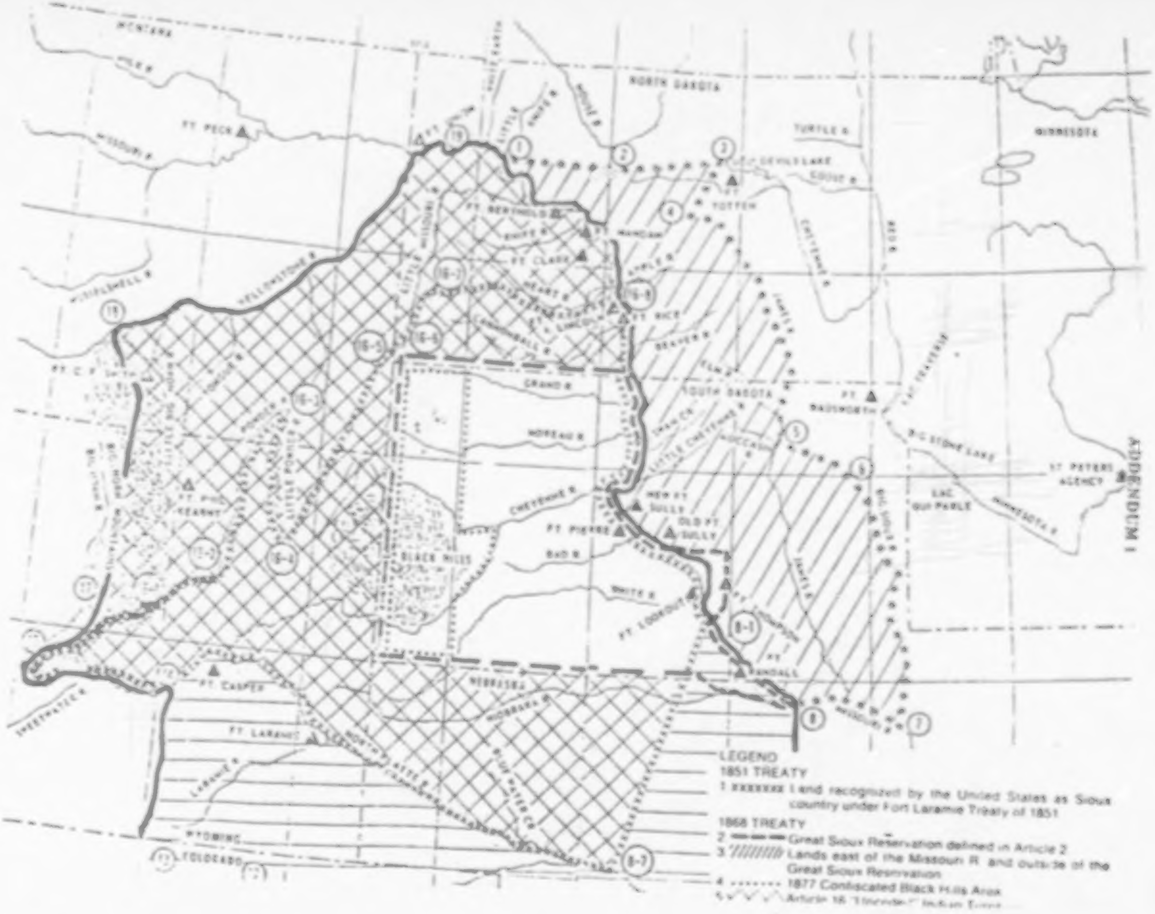
This section was addedby the Legislative Counsel of the Senate to insure that we would not file a claim on the private land in the 1877 taking area after the federal lands are returned. We have taken great care in drafting the bill to make sure that the language does not imply "ceding land" or "selling the Black Hills". This was done in order to be consistent with the traditional principle of the Lakota that the Black Hills are sacred and we do not have the right to sell them. Also the official position of the tribes is that the Black Hills are not for sale. The policy of the tribes in pursuing the legislation was to ask for only the federal lands and not any private corporate or State held lands (execpt through the mechanism of exchange, Sec 9)- yet holding fast to the traditonal principle that we cannot sell our mother. The Bill provides in Section 8 that " Any private lands purchased or otherwise acquired by the Sioux Nation within the re-established area shall be held and used by the Sioux Nation in the same manner and status as federal lands conveyed under Section 5(b)." The intent of this section was to allow the Sioux Nation to purchase or acquire title by gift etc. to privately held lands within the 1877 taking area. This approach allows us to be consistent with our principles and allows private landholders to be assured that their investment or equity in the land will be protected - principle that is most important to the non-Indian culture. The net effect of the two sections taken together is that the Sioux are assured that any "private" land acquired within the re-established area would immediately come under the jurisdiction of the Sioux Nation - the holders of the private land are assured that there will be no legal claim against them. In summary then the only way we can agree with section 22 is if it does not imply that we ceded or sold the land and if Section 8 is approved which provides the authority to acquire such lands by purchase or other legal mechanism.

Mr. Chairman, the Tribes of the Sioux Nation are united in their stand not to accept compensation for the extinguishment of title to lands in the Black Hills and their right to practice their traditional religion in those lands. The Black Hills are central and indispensible to the practice of our religion and it is the Heart of Everything That Is.

What we are asking in not unreasonable, nor is it outside of the authority of Congress. We are here today because we know that you are reasonable men who will listen and we hope that you will do what is right and just. We took great pains to insure that the Sioux Nation Black Hills Act is a fair, just, and reasonable legislative proposal. We think that now is a time for reconcilliation, for righting those wrongs which were committed against the Sioux Nation. We ask you to look at this legislation, understanding that now is a time for healing and approve the Sioux Nation Black Hills Act - then work for its adoption and enactment into law.

On behalf of the Black Hills Steering Committee, I want to thank you for providing us with this opportunity to present testimony before the Senate Select Committee on Indian Affairs. Pila Maye.

ADDENDUM I


MONTANA
NORTH DAKOTA
SOUTH DAKOTA
NEBRASKA
WYOMING
COLORADO
MINNESOTA
FT. PECK
MISSOURI R.
MUSSELSHELL R.
YELLOWSTONE R.
LITTLE MISSOURI R.
KNIFE R.
HEART R.
CANNONBALL R.
GRAND R.
MOREAU R.
CHEYENNE R.
BAD R.
WHITE R.
NIOBRARA R.
BLUE WATER CR.
NORTH PLATTE R.
LARAMIE R.
SWEETWATER R.
POWDER R.
LITTLE POWDER R.
BIG HORN R.
BIG HORN MOUNTAINS
BLACK HILLS
FT. C. F. SMITH
FT. PHIL KEARNY
FT. CASPER
FT. LARAMIE
FT. BERTHOLD
FT. CLARK
FT. LINCOLN
FT. RICE
FT. TOTTEN
DEVILS LAKE
MANDAN
NEW FT. SULLY
OLD FT. SULLY
FT. PIERRE
FT. LOOKOUT
FT. THOMPSON
FT. RANDALL
FT. WADSWORTH
ST. PETERS AGENCY
LAC QUI PARLE
BIG STONE LAKE
LAC TRAVERSE
MINNESOTA R.
BIG SIOUX R.
JAMES R.
ELM R.
BEAVER R.
MOREAU R.
LITTLE CHEYENNE R.
TURTLE R.
MOUSE R.
SOURIS R.
CHEYENNE R.
RED R.
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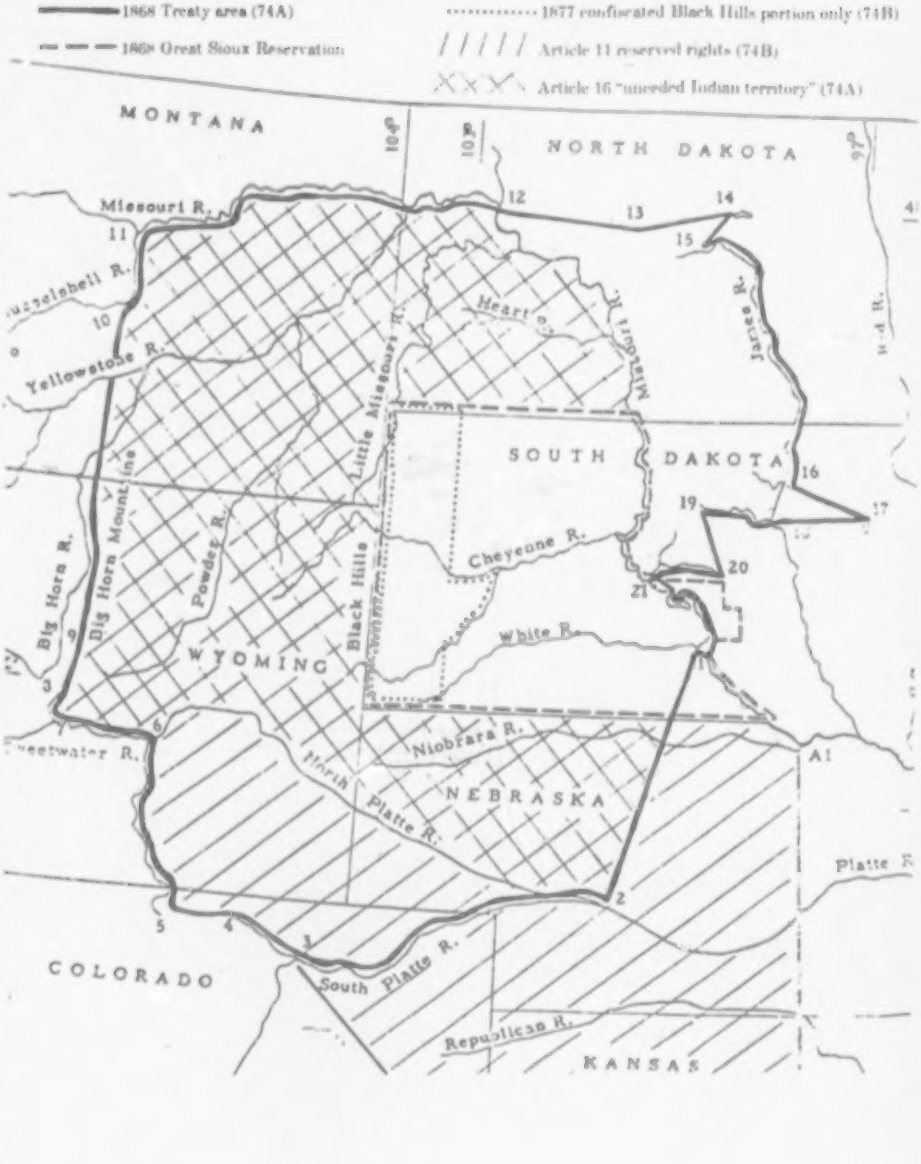
16-6
16-8
17-2
19
LEGEND
1851 TREATY
1 xxxxxxx Land recognized by the United States as Sioux country under Fort Laramie Treaty of 1851
1868 TREATY
2 — — Great Sioux Reservation defined in Article 2
3 ////// Lands east of the Missouri R. and outside of the Great Sioux Reservation
4 .... 1877 Confiscated Black Hills Area
5 Article 16 "Unceded" Indian Territory

Addendum 2

ADDENDUM 2

SIOUX LAND AREAS IN DOCKETS NO. 74A & 74B


1868 Treaty area (74A)
1868 Great Sioux Reservation
1877 confiscated Black Hills portion only (74B)
Article 11 reserved rights (74B)
Article 16 "unceded Indian territory" (74A)
MONTANA
NORTH DAKOTA
SOUTH DAKOTA
WYOMING
NEBRASKA
COLORADO
KANSAS
104°
102°
97°
Missouri R.
Musselshell R.
Yellowstone R.
Big Horn R.
Big Horn Mountains
Powder R.
Little Missouri R.
Black Hills
Heart R.
Missouri R.
James R.
Cheyenne R.
White R.
Sweetwater R.
North Platte R.
Niobrara R.
Platte R.
South Platte R.
Republican R.
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PREPARED STATEMENT OF CHARLOTTE A. BLACK ELK

Mr. Chairman and Members of the Senate Select Committee on Indian Affairs:

My name is Charlotte A. Black Elk, and I am the Secretary of the Black Hills Steering Committee. I appreciate this opportunity to testify before the Senate Select Committee on Indian Affairs.

The Black Hills Steering Committee is an inter-tribal chartered organization with membership from all of the eight organized and/or recognized tribes, which are successors in interest to the sovereign and independent bands of the Sioux Nation. The ordinance chartering the Steering Committee also provides for membership of any Treaty Council which endorses the purposes of the Steering Committee, i.e., legislative return of lands and compensation for the loss of use of lands in the Black Hills to the Sioux Nation.

The meetings of the Steering Committee are organized to ensure participation of every person attending and every decision was developed through a process of concensus by the Steering Committee and consultation with the respective tribes. Some were very active in their participation in the Steering Committee - others came only a few times. every opportunity was afforded to insure full participation of as many individuals as possible.

It took approximately two and one-half years, twenty-seven formal sessions, numerous sub-committee meetings of the Steering Committee, and nineteen working drafts to develop a legislative proposal which met the standards of the Black Hills Steering Committee and the approval of the tribes. During the process of developing a finalized document, there was an oral reading of the bill before each of the respective tribal councils. Our guiding principles in developing this proposal are those articulated in the preamble of the Sioux Nation Black Hills Act.

We understood that our efforts, goals and objectives had to be understood and then supported by the non-Indian community of the State of South Dakota. We made presentations to the Black Hills Area Association of County Commissions and Elected Officials, the Black Hills Chapter of the Municipal League, and members from the financial community of the Rapid City Chamber of Commerce. I was a member of the delegation from the Steering Committee that provided a briefing on S.1453 to the Governor of South Dakota.

I think we have made tremendous progress in our efforts to have dialogue with the non-Indian community in South

Dakota. Last fall, the Non-Partisan League of South Dakota endorsed the Sioux Nation Black Hills Act as a plank in their platform.

I also work in the field of primary research from the oral traditions of the Lakota and have the distinction of providing expert witness testimony in the Federal District Court trial where the Lakota oral tradition was accepted as submissable evidence for the first time. The Court, in its Finding of Fact, stated that "The area known as the Black Hills is central and indispensable to the religion of the Lakota". (Yellow Thunder Camp - Means vs. Mathers).

The translation of legends from the formal language of the Lakota into English has allowed a better understanding what we mean when we say the earth is our mother and the Black Hills is the Heart of Everything That Is. I am attaching to this statement several documents which articulate the theological and philosophical relationship of the Black Hills to the Lakota, and translate our writings which document our aboriginal presense in the Black Hills. I hope you will review them and that they will help you to know why the Black Hills are the most important place on earth to us - and why we will never sell the Heart of Everything That Is.

When I was a little girl growing on White Horse Creek, on the Pine Ridge Indian Reservation, my grandfathers told me many stories and taught me our origin legend by rote. They said they did this that I would know that to be Lakota means to honor and respect our first and real - the earth that all of her children may live well altogether, and to stand with my heart turned toward the Black Hills.

In 1929, my great-grandfather Hollow Horn danced the Sun Dance in defiance of the prohibitions against practicing traditional Indian religion, and my other great grandfather Black Elk was interviewed for "Black Elk Speaks" and suffered great persecution for the book. They did this to "open a door" for my generation, that we may openly seek justice and work for the return of the Black Hills.

Mr. Chairman, the Sioux Nation Black Hills Act opens a door for Congress. I urge you to be men of courage, of principle and of honor, and adopt this legislation that my children, grandchildren and their grandchildren will know justice, and that all generations will look back to this time as the day when their ancestors wrote a chapter of honor in the history of this nation.

I appreciate this opportunity to present testimony. Pila Mayaye.

STAR MAP

The Mato Oyurpe tioxpaye of the Oglala have been guardians, during the latter reservation era of Lakota existence, of a bison robe covered red and blue markings. This robe is called the "Mar'piya Makoce Xina" [the robe of heaven and earth].

Men within the Oyurpe organized the Wakan Iyapi Okolakiciye - The Speakers of Sacred Things Society, or Wakan as they are more commonly called. During the reservation era, Lakota religion and religious practices were outlawed by the United States Government. Consequently, any activity relating to Lakota religion was punishable by the removal of government rations and, at times, by prosecution and incarceration. The Wakan took upon themselves the obligation of keeping alive religious and cultural traditions and language among the Oglala and, by extension, the Lakota.

The Wakan were known to stand up at public gatherings and speak of the sacred nature of the Black Hills and many minutes of early meetings reflect this. The resulting social ostracization and governmental persecution, combined with the early rush of anthropologists buying up religious artifacts, led to the decision by the Wakan to suppress and save for another day many items of knowledge. The Mar'piya Makoce Xina was one of the items removed from public view and over a period of time, knowledge of the robe's existence was forgotten by most of the people.

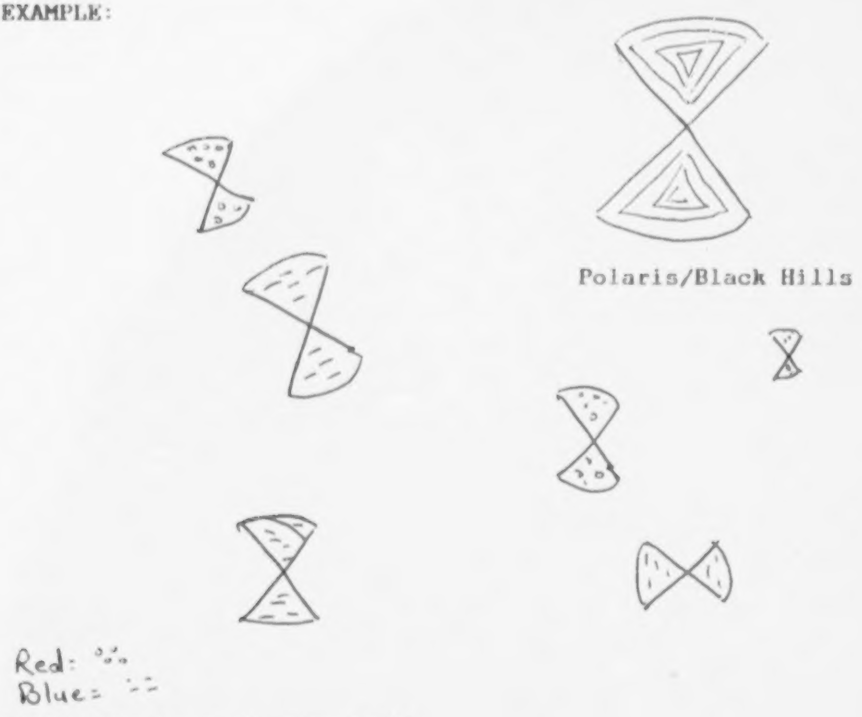
There is a Lakota expression "what is in the heavens, is on earth, in the same way". The markings on the Mar'piya Makoce Xina are both star markers and locational markers on land. The Oyurpe robe is sited to the winter solstice and it is understood that a companion robe sited to the summer solstice was also in existence, but the keeping assignment structure of the Wakan was such that knowledge of any individual's identities were not shared.

The Mar'piya Makoce Xina has a large multi-colored star symbol corresponding with the bison's heart which sites both Polaris [the North Star] and the Black Hills [Wamaka Og'naka I'cante - Heart of Everything That Is]. The remainder of the hide has red and blue star symbols scattered over it.

There are six grooved sticks with the robe. Each groove on four of the sticks are tansun markers. The remaining two sticks are for establishing distance in triangulation between star sites and determining time. The tansun markers are colored for the directions = black - west, white - north, etc., the grooves on the west are placed approximately one rtutila apart while the others are a xutsunla or more. When the tansun sticks were used, the Polaris/Black Hills marker were set in the proper direction and then the earth location corresponding with the star of the same name would be identified. Depending on which side of the Black Hills one happened to be, the proper tansun stick would be used to determine distance, in tansun, to Harney Peak. Knowledge of the proper route for each season and weather conditions would be factored in for determining travel time. One stick is colored blue and grooved differently, this would be held above the robe and the green stick for the earth placed on the robe - using a formula for establishing triangles between the sites/stars one would be able to determine time through the distance of movement of the stars.

The Polaris/Black Hills marker is approximately one r'pansun large, one/half r'pansun on each side. The blue markers are each a mountain, hill, or other raised landmark and the red markers are either points in a valley or the confluences of rivers/creeks. Because the robe can be used on any side of the Black Hills, each star has four locations on earth bearing the identical name. For example; there is an Inyan Kara mountain on the western boundary of the Black Hills and a hill of the same name in Minnesota.

EXAMPLE:



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OVERVIEW
OF THE
OCETI XAKOWIŊ

The Oceti Xakowiŋ

The Oceti Xakowiŋ could be best described as a super-confederacy of Lakota, Dakota, and Nakota Nations held together by language, religion, and culture. Privately, these people referred to themselves as the Ikce, common beings who did not stand above any other in the over-all scheme of creation. The name Lakota (or Dakota/Nakota) was used to inform all others of where they stood in relation to those other people; Lakota in the formal language = the men. The Lakota say that of all relations, they were created the last and are superior to all humans.

The Oceti Xakowin are:
Mdewakantoŋ = The people of the many lakes or great lake(s) <Their territory ranges near two of the Great Lakes and also the Mille Lacs [thousand lakes] area>;
Warpetoŋ = The people of the leaf [mountains] <The leaf mountain area of present day Minnesota, sometimes called the Pockerbrush>;
Warpe Kute = The people down stream from the Leaf Mountains; (The Warpeton, Warpe Kute and Mdewakanton are collectively called the Isanti [Santee])
Ihaŋktoŋwan = The people of the stone [quarry] <The protectors of the Pipe Stone quarries>
Ihaŋktoŋwannai = The lesser people of the stone [quarry] <Designation of a smaller now distinct group of the former who also quarried pipestone and flint>;
Sissetoŋwaŋ = The people of the north <Their territory was along the northern boundary of the Oceti Xakowin>
Tetoŋwaŋ = The people who live at home <The Black Hills was recognized as the home base of all the Oceti Xakowin>.

Territory

The territorial base of the Oceti Xakowin ranged from the Great Lakes on the east to the Rocky Mountains on the west and along the Arkansas River towards the long grass region of central Kansas and Illinois on the south to the plateaus of the Canadian Shield on the north. Within this greater territory, other nations were allowed residential rights in distinct smaller areas, as well as the right of safe passage through specific travel boundaries for others.

The base camp - home territory of each Oceti was described as being from one point to another, with the Isanti ranging from the Great Lakes on the east to the Red, James, and Missouri Rivers on the west and from the area "where the grasses change" (long grass region)in the south to the "land of bowls of water" (Lake Winnepeg) in the north. The Sissitonwan ranged from the timbered openings by the Great Lakes and the "land of the pockets of water" in the east to the upper confluences of the Missouri headwaters on the west and from the broken prairies in the south to the lands of the "thin soil" (Canadian Shield)in the north. The Tetonwan ranged from the James and Missouri Rivers in the east to the Rocky Mountains in the west and from the Arkansas River in the south to the confluences of the Missouri headwaters then to the flattened prairies in the north. The Ihankton and Ihanktonwannai were in the center.

Language

The Lakota used three languages; Ikce, Tob-tob, and Hanbloglagia. Ikce is a household language used in general conversational settings with men and women utilizing masculine and feminine sentence endings. Ikce did not require strict word interpretations and is the dialectical language (L/D/Nakota). Tob-tob is a formal language used primarily in pre-reservation governmental functions and religious ceremony. Formal protocol and strict rules were observed for use of tob-tob and usage of the language was restricted to specific settings. Generally, men were taught and publicly spoke tob-tob, with very few women publicly speaking it. The formal language has not, with the exception of a very few words, been written. Hanbloglagia is the sacred language, and is not a spoken or verbally modulated language; it is sometimes called the "singing or whistling way".

There are some sounds that have a technical and philosophical interpretation in Tob-tob, and have a different, more general meaning in Ikce. In the formal language, the word "xa" means to be adorned, to have presense; but in the household language the same expression means "red". For the most part, Tob-tob is a one syllable based language that is spoken in compound phrases while the same compound or multi-syllable sound in Ikce has a general meaning. For example, the term Wakan Tanka in Ikce would be: wakan = power, and tanka = big, great, tremendous, magnificent, etc., but that same expression in Tob-tob is; Wa = that which is what it is, Kan = power beyond comprehension, Tan = that which makes it what it is, Ka = eternal, from all time, old.

Writing

The Lakota used several forms of writing (writing = the manner of committing information on media through an abstract form of markings). The markings on stone or wood are properly called "ounkaka" (o = of how; un = they live; ka = chipping, kaka superlative), the term was used both for the actual item on which the story was written and the oral story. The word has been corrupted, during the reservation and non-speaker anthropologist era, to apply only to the collection of teaching stories told to children and is now called the "ohunkaka".

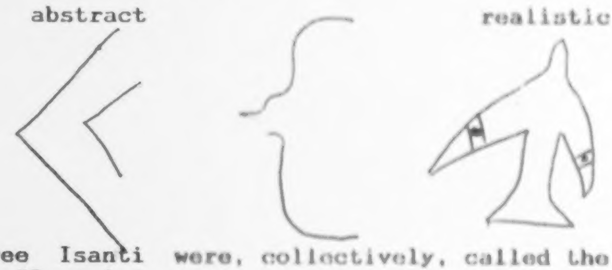
"Wowapi" (wo = marking; wa = with paint; pi = they do) is the term used for anything that is not chipped or carved but simply painted. The term, after white contact, has been used for books, letters, writing of any sort, and anything printed. The majority of wowapi are in caves, on winter counts, and, in a few isolated cases, on protected cliff faces.

In many instances ounkaka was also painted to highlight figures or to give spiritual significance to items indicating an adornment, respect deserved/earned, or tying to knowledge. The relative abstractness or realism of the writings was controlled by the media and was futher influenced by the relative mechanical and/or manipulative skills or artistic abilities of the author. The ounkaka of the Oceti Xakowin is now referred to as "Rock Art".

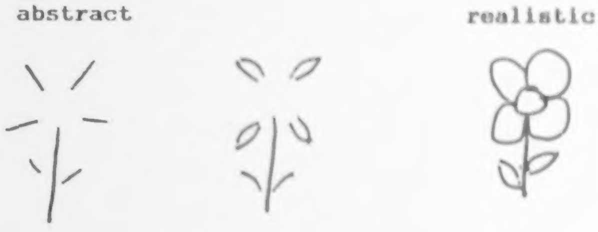
Oceti Signature

Each of the Oceti Xakowin utilized a "signature" marking to identify its presense, territory, writings and events. This signature was related to the commerce activity, territorial area, or behavioral traits of the respective Oceti. The degree of realism or abstractness was dictated by the media.

The Sissitonwan were referred to as the Nation of the Yellow Hawk "Cetan Watakpela Zi".



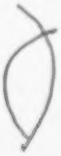
The three Isanti were, collectively, called the Nations of the Herb "Rantula".



The Ihanktonwan and Ihanktonwannai were identified as the Nation of the Circular Quarry (greater and lesser).

Ihanktonwan

abstract



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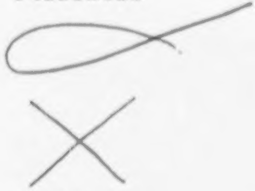
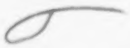


Ihnaktonwannai

abstract



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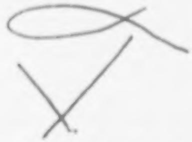
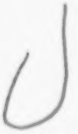


The Teton were referred to as the Nation of the Buffalo "Pte Oceti".

abstract



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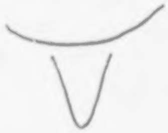

Signature Name

It is standard Lakota practice to explain any symbolic representation with several interpretations; descriptive, household, descriptive, symbolic, spirital, etc., all of which would be proper and appropriate.

The interpretations of signature and name of the Sissitonwan "Nation of the Yellow Hawk" are:

1. The yellow hawk flies very high and therefore has the ability to have a "global view", as it were. It was often said that the Sissiton developed and cultivated the abiltiy to levitate by mental powers. This is a formal and spiritual interpretation.

2. The yellow hawk, while not a true shrike, will attack or chase other birds in the same fashion as a shrike or falcon. The Sissiton apparently were known to battle among themselves and with other Oceti. This is a descriptive and household interpretation.

3. The yellow hawk lives in both heavily wooded areas and flatlands that are not always heavily wooded and can subsist on either fish or small game. This also describes

the economy of the Sissiton, who were primarily fishers and gathers trailing the remnants of the Saskatchewan buffalo herd.

The interpretations of the Isanti signature and name "Nations of the Herb" are:

1. The Isanti cultivated the canxaxa (red osier dogwood) for use with the pipe, as well as a number of medicinal and sacred herbs for cermonial use. This is a formal and spiritual interpretation.
2. The herb, and all other plant life, remains in one area and does not "pick up and move". This is a household and descriptive interpretation of peoples who lived in large settled villages with distinct summer and winter camps.
3. The Isanti traded many herbs and some vegetables with other Oceti and neighboring tribes. This describes their commerce activity as well as the heavily wooded territory where they lived.

The interpretations of the Ihunktonwan and Ihunktonwannai (or Yankton as they are now called) signature and name Nation(s) of the Circular Pit are:

1. The Yankton were the protectors of the Pipe Stone quarries, with each Oceti taking turns at physical residence at the quarry. This is a formal and spiritual interpretation.
2. The lashed or twisting motion used to sign the Yankton is a reference to the method of quarrying in a circular direction. This is a household interpretation.
3. The Yankton traded pipe stone and flint with the other Oceti, had some limited commerce of pipe stone with several non-Oceti Siouan tribes and carried on a broad trade of flint with everyone. This describes their commerce activity.

The interpretations of the Tetonwan signature and name Pte Oceti are:

1. The Black Hills are referred to as a south facing buffalo and the buffalo was responsible, when it gave its life, for the survival of the people. The area between Inyan Kara, Mato Tipila (Devil's Tower), and Okawita Paha (Bear Butte) is designated as the Buffalo Head during the time of the Sun Dance. This is a formal and spiritual interpretation.
2. The Tetonwan lived around and protected the Black Hills. This is a household interpretation.
3. The Tetonwan traded buffalo meat, hides, and utensils with other Oceti and neighboring tribes. This describes the commerce activity.

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BLACK HILLS STEERING COMMITTEE

"RESPECT FOR THE EARTH"

OVERVIEW

The conceptual context of the Lakota philosophical principle of "respect for the earth" is found in a number of legends and cultural practices. Basically, this principle defines the relationship between the Lakota and the earth, and is founded upon the belief that the earth - Maka - is the first and real mother of all life. This is, then, further defined and refined through a series of legends and practices. Each legend provides a philosopical and theological framework, while the cultural practices offer a concrete translation of the principle. This discussion will provide a capsule overview of a selected sample of those legends and cultural practices which reflect upon the concept of respect for the earth, as discussed in Section 12. Black Hills Sioux Forest of the "Sioux Nation Black Hills Act".

OTOKAHE EKTA

The legend of "Otokahe Ekta" (O = at; to = blue, different, or first; ka = motion; he = that; e = is; kta = time or place [spacially or relatively locational]) provides the first principle of relationship between all aspects of creation.

"At the time of first motion, Inyan -from which it is- is.
Before anything had meaning, Inyan is.
the spirit of Inyan is Wakan Tanka -that which is that it is, is beyond understanding, what makes it what it is and always is.
Inyan is soft and Inyan is supple,
the power of Inyan flows from his blood,
and the blood of Inyan is different
and the difference is blue.

Hanhepi -it is without motion- is then,
but hanhepi does not have meaning,
for Hanhepi is only the dark emptiness
that is the void of space.

Inyan desires that another exist
but there is only Inyan, so no other could be
unless Inyan creates the other from himself,
as a part of himself, to remain, forever,
attached to him, could another one exist.

He would also have to give
this creation some of his power
and a portion of his spirit.

So, Inyan takes of himself and shapes a disk,
this he wraps over and around himself.

He names this new being, "Maka" -I am from the first.
He desires that Maka be great,
so he opens his veins and
allows his blood to run freely.

All of Maka is great
but her heart is more great and special
and it stands first of all the places of Maka.

Now, Maka becomes the earth,
and the liquid of Inyan's blood
becomes the water, Mini -life sustaining fluid-
circling Maka,
the blue of his blood surrounds Maka
to become the sky, Marpiya To -
I am the difference that is tossed upward.

So the other would be Inyan takes of himself, completely,
now his spirit, power, and meaning are reduced.
He now becomes inyan -the stone - brittle and hard,
first of all things, existing from the beginning of motion.

Now there are inyan, Maka, Marpiya To, and Mini.
But there is neither light nor dark, neither heat nor cold.
Only the four are, each with a portion of Wakan Tanka,
a portion of original material and a share of original power.

Maka whines that she does not like the cold darkness
and demands inyan give her light.
But inyan does not possess enough power
to give her comfort.

So then he determines that Maka, Mini and Marpiya To
each will take of themselves
and create a source of light.
This is done and Amp -the approaching- is,
taking his place among them,
but he does not have meaning,
for he is only the redness of light.

So there is light everywhere but without heat.
Now Maka understoods that she was naked,
and she is still cold,
again she complains.

Each take some of their material, power and spirit,
with this a sphere of shining light is formed,
the shining circle of light is named Wi -the sphere.

Wi is placed in the realm of Marpiya To
so it may radiate heat and light from above.
Still, Maka complains to inyan that Wi
only heats her nakedness and she is still barren.
She orders inyan to move Wi so she may have rest.

However, inyan refuses.
He askes that Marpiya To be given
the authority of judge so he may decide
the relations between the creations.

This they do,
Marpiya To becomes the judge of all things,
his authority is final and absolute.

Marpiya To requests that Hanhepi become one of the
creations and provide the others with a time of darkness.
He then orders Wi and Hanhepi to follow each other
on a circling journey through his realm,
giving Maka a time of light and heat
and a time of darkness and relief from heat.

Still, Maka complains saying she is barren and naked.
So Marpiya To then declares that Maka will have covering
over herself, but the covering of Maka will be created
as a part of her, forever attached to her,
and she will nourish it from herself.

Then, Marpiya To orders that Mini direct
some of herself to course through Maka
helping with the task of nourishment.
Wi will give heat and light
that the coverings can grow
and Hanhapi will offer a time of rest.

Maka takes of herself and creates her covering,
These she calls her children.
The first child is Taku Xkan Xkan -what moves and grows.
The second child is Warupa -moves high by spreading out
Her third child is Wahu Topa -moves on four legs

The fourth child is her special child,
Wahu Numpa -moves on two legs,
He is named Mato - I am different, set apart,
And symbolizes wisdom.

Later, much later, Maka decides she will have another child,
Another of the Wahu Numpa,
This other shall have a responsibility
To make choices.

Maka takes of herself and creates bone covered with flesh,
The being is fashioned in the likeness of Woope -the law,
Her name is Winyan -you are complete,
A companion, in a shape compatible to her is then made,
He is man and his name is Wica -a step from completeness.
Woope is the teacher of the new creation and her companion."

The above summary of the origin legend provides the philosophical and theological relationship of humans to all of creation. Importantly, it also defines the relationship of the Black Hills to the earth - the heart that is special and stands first among all places. The role of humans is to make choices within a structure of laws, but humans are only one of four children and another of the two-legged. The under-lying principle set forth within the origin legend implys a responsibility that is, inherently, connected to and a part of making choices.

TAGLUZAZA TOPA

The legend of the cleansing shows the result of exercising choices, in this case, adversely and the duties given to humans, long after their creation.

"Many ages ago, there lived many nations of humans on the surface of Maka. At that time, great mountains ran east and west across Maka and the Heart of Everything that Is stood first among the places of Maka. So long as the humans remembered the rules of life given to them by Woopo, the Law, their lives were good. But a time came when only a few nations lived by the teachings of Woope, and the majority had taken the rule of Ksa, Gna, and Xki. Maka was wounded by the destructive actions of her human children and she wept for them.

Maka called her two-legged children to her heart, but only a few, who still spoke the language of their mother, gathered. Those she held close to her and told of her pain and anger. A time of discipline from a mother to her children was approaching, she told. The work of Hor'e Win (She Makes a Mark = creation) was in danger of being interrupted and a time of choice was among the nations - a red and blue day if Hor'e Win was allowed to complete her task or the humans could declare for their own the decision of abandoning the robe of creation. She told her children to prepare for a time that was different and they would retreat to sheltered places, there to be protected by their mother.

At a time that was different from all other times, Maka cleansed herself. The waters of Mini left their river paths and spread until they joined each other covering Maka. The surface of Maka shook, suddenly great channels in the earth opened, entire nations fell in and then the chasms closed. The land became covered with eruptions, mountains emerged discharging rivers of molten rock, covering more nations. When there was only a few nations of children left on her surface, Maka demanded a decision from them and many chose to remain with Ksa, Gna and Xki. Maka then removed these nations from her realm and protection - they would no longer be among her children.

Then Maka was calm, she was cleansed and renewed. But her surface was broken and scattered and all things on the surface of Maka were changed, only the Heart of Everything that Is remained the same. Now the great mountains were running north and south - a sign of the good road and a message to the surviving nations of their final chance to remain children of Maka."

This legend shows the consequences that can follow when the right to make choices are exercised in a manner that is not according to ways the powers of the world move to do their work. While there are protective and nurturing actions on behalf of the earth to her children, there is also an absolute and final judgement. In other words, if humans make the wrong choices, they will have to bear the responsibility of selecting their own genocide.

The Tagluzasa Topa also shows that the Black Hills is central to the very existence of the earth.

OTAKUYE TOPA WAMAKA OG'NAKA I'CANTE OKI'INYANKE

The legend of the "Run of the Four Relations Around the Heart of Everything That Is" reconfirms the inter-relatedness of the children of the earth to each other and to all of creation.

"In ages long past, the surface of Maka was one unit, great mountains ran east and west, and the Heart Of Everything That Is, stood first among the places of Maka. Many nations of the children of Maka lived upon the surface of the earth. There came a time when most the nations of humans grew selfish and greedy, throwing aside the rules for all the people living well altogether. Maka was distressed that her children of the four relations had become so divided and their actions wounded her deeply. She called to her children to return to her but only a very few understood her message and came, those she took to her heart.

Maka then shook herself, a cleansing was upon the world. Great rivers of melted rock covered entire nations, chasms opened and swallowed entire nations, the waters of Mini left their places and washed Maka removing other nations in the process, and finally some nations made the choice to no longer be the children of Maka and they were destroyed by Wakinyan.

When the world was calm again, the surface of Maka was broken and scattered. Entire nations of the four relations disappeared, new mountains were now running north and south as a sign to the children of Maka that they had only one last chance to walk the good red road, everthing was changed. Only the Heart Of Everything That Is remained and it stood higher still as the first of all places.

One day, Magpie, flying in his funny little way, landed on a small bush near a gathering of the four-legged and the moving and growing things of the earth. He heard Buffalo address the assembly, "It was the two-leggeds who did not live properly and brought the penalty of the cleansing upon us. I say, we must destroy the two-leggeds so the rest of us, who are the other children of Maka, can live well without the destructive nature of humans". All nodded in agreement and begin discussing ways to destroy the two-leggeds. Magpie quietly flew away, unnoticed.

Magpie called a council of the winged and told what he had heard. Some said the four-legged and moving and growing things were right, and that the winged should join them.

Then Owl spoke quietly. "Remember that, Bear, the most esteemed of Maka's children, who is the symbol of wisdom, is also of the two-legged. I ask you, what is the quality of life without wisdom? I say the value of wisdom obligates us to take action that will allow the two-legged to live". The winged looked at each other and said "Nunwe", for they knew Owl spoke the truth.

The four-legged, the moving and growing things, and the winged held a council and declared that a great contest of endurance would be held, the winners to have their way. If the alliance of the four-legged and moving and growings things were victorious, they would t'ebya (rub out) the two-legged. If the winged claimed victory, the two-legged would gain continued life. It was decided that representatives of the two sides would circle the Heart Of Everything That Is four times/days, beginning and ending at the special mountain of creation.

On the appointed day, all gathered at the special mountain to run a clock-wise journey around the Heart Of Everything That Is. Many laughed when Magpie stood at the starting line and called to him, "How can you be in this test of endurance, you who do not even fly south for the winter?" Magpie said nothing and prepared for the contest. At the signal, all rushed off. At mid day, Magpie came upon Deer, who stood with his tongue lolling and lathered with sweat. Greeting him, Magpie hopped on. As he continued, he met others who had left him in their wake when the race first started; Elk, Buffalo, Hawk, Eagle and Swallow. Magpie traveled until late into the night, the next morning he left early. Soon everyone caught up to him and passed him, each time when he came upon them they were exhausted and he continued on.

The race was hard and those who ran wore the covering off of their feet, leaving behind a trail of blood. As all of creation thundered around the Heart of Everything That Is two times, their running so shook the earth that a strange swelling lifted beside and above the special mountain. They circled around this uplifting of ground on the third and final time, but a few kept to the initial path. As they neared the finish line, Buffalo was leading the pack, then Magpie jumped on the back of Buffalo and within a short stretch of line, he flew across.

The victory of Magpie allowed the two-legged to continue their existence. The children of the four relations travelled to where the strange uplifting of ground had occurred during the race, they peeled off the surface of the land and found it was Sapa (a place established on earth) the staff of Inyan. This, it was decided, would be the special home of Bear. A marker for all time of the value of wisdom, and the great sacrifice given so wisdom could remain among creation. Maka then decided that the trail of blood, shed by her children, would remain as a sign of the sacrifice and a reminder to the two-legged that their right to existence was one with responsibilities to everything else in creation."

This legend sets forth the act of the reconcilliation, with responsiblitity, of humans back into the realm of creation, centered again around the Black Hills, reiterates the principle of all things living well, altogether.

OZUYEYA IG'LAMNA

The legends of the Counter Attacking Journeys provide the conceptual framework of the responsibility for teaching and corrective actions given to the Ikce. The first story of this series of legends outlines the principle of duty to make right what has gone wrong. This also establishes the role of the Ikce to other peoples.

"When the the earth was calm after the cleansing of Maka, and the Ikce were reconcilled and returned to the surface of the world, they were given the duty to become ieska (interpreter) to the nations of the world. They would have the responsibility of correcting all things that were contrary to the way Hor'e Win moved to do her work.

Before they could fulfill their obligation of insuring that the teachings of Woope,the Law, were upheld, they had to determine the condition of Maka and see what changes had occured during the Cleansing. A decision was made to send Tonweya (scouts) on a journey along the trail of the winds.

In traveling toward the west, the first of all places, they saw new mountains running north and south followed by stretches of empty plain. They traveled to more mountains, again running north and south, then came upon waters without end. The Ikce saw that this was good, there were many lands each with their own purpose.

When the Ikce turned to the north, they came upon the stagnant waters of Unkterila followed by plains of ice. Knowing they could go no further, the Ikce returned home and told of what they encountered.

Maka then sent a sign, instructions on how the journey would be undertaken. The Ikce would call upon Heyoka, the counter attacking power, to accompany with them on their journey. They would travel in a counter clock-wise direction, going back to the west, then south, east and north until finally they would be home. But this journey would take ages and would require that messangers periodically return home with any information on how the world was and the behavior of the nations living on her.

The Ozuyeya Iglama became the principle task of the Ikce. Some of the travelers would return home, new ones would join the journey. At times, a few grew tired of traveling and remained in lands they liked. At other times, some of the people, from nations that were visited, would join the Ikce. Each trip would take a generation or more.

The work of the Ikce provided Hor'e Win with the opportunity to work on her robe at a pace that was orderly. When the Ikce encountered anything that was contrary to order, they called upon Wakinyan, who is the same and the other of Heyoka, to correct or destroy the aberration. They would also request the assistance of the other powers of the world, when needed."

The principle of the Ikce being given the responsibility for taking corrective actions and constant vigilance is set forth in the Counter Attacking legends. There is also the principle of returning home to the Black Hills.

TOKAHE

The series of Tokahe legends tell of when the people reentered the surface of the earth from the Heart of the Earth (caverns) and had to re-learn survival practices. These stories begin with the term that qualifies that the people discussed are the Ikce - common, not above anything else in creation. Each story ends by telling that the Ikce will be Ikce so long as they choose to be Ikce and their decendents are the Lakota : They are highly esteemed.

One principle of the Tokahe legends is that the Ikce may take their food and survival resources where they find them, but it must always be in a respectful manner and they will take only what they need.

OUNYEYA

The Lakota principles of "respect for the earth" and "the lives of all the people altogether" dictated the adoption and institution of settlement rules which allowed large numbers of tiospaye (kinship units) and ton (villages) to live on lands within the territories of the Oceti Xakowin.

The principles of the Lakota required that lands be allowed to rest and regenerate for a minimum space of seven years between usage. It was believed, and practiced, that the earth should have only good memories of habitation by the two-legged.

During the time that a tiospaye or ton was settled in a location strict rules governed community behavior. The center of the camp circle or village avenue was considered to belong to the community and it was ritually smoothed. Areas were set aside for toilet purposes, men and women having separate sites. Members of the community were obligated to dig holes for use as human waste pits, pile the extracted dirt beside it, and cover with the dirt after each use. Any left-over food was given to the camp dogs, and uneaten bones and bone chips were put into the central fire pit when the camp was leaving for the next settlement. Even the small holes made by the tipi stakes were filled.

Young seedlings were collected and transplanted near existing trees so there would be adequate and continuous supplies of firewood for future resettlement by the tiospaye or ton in the same location. Tipi fire pits were covered and used as planting sites for seedlings, with the central fire pit being planted with a cottonwood tree. Grass seeds were gathered and distributed over the camp areas as the group was dispersing for the next summer or winter camp. The community area in the center was swept and planted. If the camp had dammed the nearby creeks, to insure that adequate and deep water was available, these were dismantled.

The earth was considered so sacred that the dead were put upon burial scaffolds or high trees, so as not to violate the earth. After the birds had cleaned the carcasses, the bones were collected and ritually burned. Only when one died of communicable diseases were the corpses buried, this being done to insure that the illnesses did not spread to other living things.

SUMMARY

The principle of "respect for the earth" is outlined in the above discussions and legend summaries. A philosophical context of the relationship with the earth, and between humans and the earth, as well as the other children of the earth, is necessary for the Lakota because the underlying principle deriving from the origin legend is that "the whole is present in all of its parts and each part represents the whole". Any segment of creation cannot be isolated from any other, however there are some parts of creation and the earth that have a special and unique character. The Black Hills is always presented as the part essential for existence of the Lakota/Ikce.

When the principle of "respect for the earth" is viewed within the context of the "Sioux Nation Black Hills Act", then the need for certain practices are clarified. The rule of utilizing renewable resouces, and active participation in insuring that such resources are, indeed, renewed or regenerated. It follows, also, that non-renewable resources must be used judiciously, and then only in amounts absolutely necessary for survival.

The strongest concept, however, is that man does not have the right to exist at the expense of others in creation, and certainly does not have a higher right of existence. The absolute inter-relatedness of everything in creation requires that every use of resources in the Black Hills be balanced and non-damaging to the environment. Black Elk made the comment that "When we speak of 'mitakuye oyasin' - all my relatives, we know always that the growing and moving things of the earth, the winged, the four-legged, and the two-legged are all children of the earth and they, too, want to live. So we say mitakuye oyasin."

The use of traditional Ikce philosophical principles and theological concepts for organizational design and management practice is one the Lakota have used for thousands of generations, and is still appropriate, particularly for the Black Hills.

Note: the interpretative translations of legends and terms contained herein are the sole responsibility of Charlotte A. Black Elk.

BLACK HILLS PLACE NAMES

Every place or area given a name in Lakota territory is tied either to the physical appearance, physical attributes, or social and spiritual usage of the place. Accordingly, the names given a place are in keeping with Lakota social mores and customs: sacred things are not discussed during informal household visits; a name is given for common/informal purposes, another name is proper for household/everyday purposes, a formal proper name is given for social/spiritual significance, and another name is used only during sacred times. Each name is used according to the given/earned or assigned purpose - so too with place names. Each place has:

1. A common household name that any person could use in most social settings

2. A proper household name that denotes or acknowledges a level of respect for an area/place

3. A formal proper name relating a place/area to a spiritual/sacred significance

4. A sacred name used only in sacred/religious settings, not spoken outside of such setting

5. Other names with a sacred inference used when speaking of a place in conjunction with a sacred ritual or symbolism, used for no other purpose

BLACK HILLS PLACE NAMES SUMMARY

LAKOTA NAME	ENGLISH/MAP NAME	SOURCE
R'e Sapa	Black Hills	BLACK RIDGES - household name used to describe the area
Wamaka Og'naka I'Cante	Black Hills	THE HEART OF EVERYTHING THAT IS - proper formal name, from theology principles
Hocoka yapi	Black Hills	THE CENTER - sacred name, from theology principles, Black Hills are a center for Taku Xkan Xkan -the moving and growing relatives; the Black Hills are the eastern most point of the western plants, S of the northern, W of the eastern & N of the southern
Paha Sapa	Black Hills	BLACK HILL(s) - household

		name, also proper household name for Iron Mountain
O Onakinzin	Black Hills	SHELTERING PLACE (where they return and defend) proper household name describes the view of Black Hills among the Oceti Sakowin
Chiwita	Black Hills	THE HOME SANCTUARY - sacred name tied to theology
Opahata I	Harney Peak	MOUNTAIN AT THE CENTER WHERE HE COMES - sacred name, the peak is the center of the universe
Paha Pestola	Harney Peak	THE PEAK - common household name
Ox'kate Paha	Harney Peak	MOUNTAIN OF THE PLAYFUL THUNDER BEINGS -proper household name, tied to belief that thunder behaves differently at and near the peak
Rpanta Yate	Area of a tansun radii of Harney Peak	TERRITORY WHERE WAKINYAN HATCHES HIS YOUNG - sacred name (rpanta = concern of a father over a newborn child, yate = the west wind) Harney Peak is the home of Wakinyan and the season's thunderstorms are started here
Inyan Kara	Inyan Kara	FROM THE FIRST MOTION OF THE STONE - proper formal name with roots in formal language and creation legend
Pte He Sapa	Inyan Kara	THE BLACK BUFFALO HORN - the sacred name for symbolizing a sacred area during specific ritual - inipi stones were taken from Inyan Kara for use in the Sun Dance at Devil's Tower - end of a territory
Hor'ewin Ti Paha	Inyan Kara	MOUNTAIN HOME OF CREATION - sacred name - the old woman who quills a bison robe symbolizing creation
Mato Tipi Ta	Devils Tower	BEAR LODGE'S SACRED PIPE

Cannupa Wakan		MOUNTAIN - sacred name for place where the sacred White Buffalo Calf Pipe was first given to the Lakota
Pte He Ri/San	Devils Tower	THE GREY BUFFALO HORN -sacred name used when speaking of a buffalo head symbolizing a sacred area - where the Sun Dance was held during the summer solstice
Hu Nump Otiwita	Devils Tower	THE HOME SANCTUARY OF WISDOM formal proper name, in creation legend the Hu Nump(bear) symbolized wisdom
Inyan Wiconi	Devils Tower	STONE OF LIFE RENEWED -sacred name - where the Sun Dance, the ceremony of renewal, was held
Mato Tipi/Tila	Devils Tower	THE BEAR LODGE - proper household name in deference to Hu Nump Otiwita - not speaking of sacred things in household settings
Unci yapi	Little Missouri Buttes	THE GRANDMOTHERS - sacred name, tied to theology principles, the role of grandmothers in teaching sacred principles and ceremonies,
Tunkaxila yapi	Harney Group	THE GRANDFATHERS - sacred name, the oldest, with the Grandmothers - identification of ancestry
Pte Pute Ya	Bear Butte	THE BUFFALO'S NOSE/MOUTH - sacred name used when in reference to buffalo head
Sinte O Cunku Paha Wakan	Bear Butte	SACRED MOUNTAIN ON THE ROAD ALONG THE TAIL - formal, proper name tied to belief that Black Hills are south facing buffalo
Okawita Paha	Bear Butte	GATHERING MOUNTAIN - common household name identifying place where Lakota gathered after the Sun Dance at Devils Tower for meetings - also a meeting place for war parties

Sissetonwan Oye Basdata	Bear Butte	PATH MARKER OF THE SISSETON when the Sissetonwan entered or left the Black Hills this mountain was the marker for setting a course northward
Wamaka Xkan O Ki'inyanke	Race Track (Spearfish Formation)	RUNNING PATH OF THE ANIMALS - name appears to be used in all classes of references
We Ok'papsun Xkokpa	Race Track (Spearfish Formation)	THE VALLEY WHERE THEY SHED THEIR BLOOD - sacred name symbolizing reconcillation of man into the community of creation
Yamni Op Rara	Niobrara (Northern Head waters)	THREE HORNS SURROUNDED BY WAVY PLATE - formal proper name of an evil area; where the triceratops was found
Narura Wahor'pi	Niobrara (Southern Head waters)	NEST OF THE SMASHED HEAD - formal proper name of an evil area; stories indicate a dinosaur head possibly the lambeosauris
R'e Xla	Slate Prairie (Limestone Plateau)	THE BARE RIDGE/CREST -formal name, also descriptive of area, reported to be a tansun in north/south distance (lakota measurement approx. 7-9 U.S. miles in length)
Tayamnipa	Slate Prairie (limestone plateau)	PRINCIPLE OF THE THREE RELATIONS - sacred name, the "first born" of the winged, two-legged, & four-legged; also name,and shape, of a principle constellation associated with the Black Hills
Pe Xla	Reynolds Prairie (limestone plateau)	THE BARE/BALD HEAD - common household name also descriptive of area
Pe Hunkakoza	Reynolds Prairie (limestone plateau)	HEAD OF PEACE MAKING RITE sacred name - territory marking the formal start of the ceremonial rituals associated with the pipe
Heraka blaye	Reynolds Prairie	ELK FLATS - sacred name;

		where the sun dance rite was given prior to the coming of the pipe by the elk nation
Keyapiya	Gillette Prairie (limestone plateau)	MEADOW OF THE TURTLE sacred name; the "last born" of Taku Xkan Xkan
Hinhan Raka	Cathedral Spires	THE RATTLING OWL - sacred name also descriptive of physical characteristics of area - from distance of several miles it looks like an owl's head & wind in the outcroppings sound like an owl's feathers rattling
Wapiya Oblaye Inyan	Medicine Rock Flats	THE FLATS OF THE HEALING ROCKS - formal household name of area where volcanic lava rocks are found north of city of Belle Fourche
Inyan Rlorloka Xa	Medicine Rock Flats	THE ADORNED POROUS ROCKS - sacred name - also descriptive of physical characteristics of rock and area
Hinhan Karata	Castle Rock	FLAPPING OWL - (karata - to stand with arms/wings out stretched as when scaring or waving away) household name; used in the teaching stories to children to behave in a certain manner when in the Black Hills or the Owl would get them
Tatoye Oyurlokapi	Wind Cave	THE OPENING OF THE FOUR WINDS sacred name, often referred to as the entrance to the surface of the earth from the cavern sanctuary network
Tate Waxun	Wind Cave	THE CAVERN OF THE WIND - common household name descriptive of wind movements thru the cave
Cantoyeya	Black Hills Caves	ARTERIES OF THE HEART - sacred name, also descriptive of cavern formations; a sanctuary area

Tatanka Ta Tiyopa Pte Ta Tiyopa	Buffalo Gap	THE DOORWAY OF THE BUFFALO - common household name of the eastern entry route of the buffalo during spring migrations into the Black Hills
Maya Kaka	Craven Canyon	THE CLIFFS OF WRITING - formal household name
Kangi Atonweya	Crow Peak	THE HILL FROM WHERE THEY SCOUT FOR CROWS - common household name, Crow's(tribe) would attempt to enter the Black Hills from the north northwest, a scouting post
Wakpa Waxte Itrunhan	Belle Fourche River	FORK OF THE GOOD RIVER - household name - the upper boundary of the Black Hills area
Wakpa Waxte	Cheyenne River	THE RIVER WHOSE STRENGTH IS GOODNESS - formal proper name, lower boundary of the Black Hills area, descriptive of the river which did not dry up in times of drought and accorded the highest degree of respect because its "arms" held the most sacred place inside of them, also THE GOOD RIVER - common household name
Ina Cantognagaya Gluspa	Cheyenne River (both forks)	THE MOTHER CRADLES HER HEART Sacred name; the earth is the first and only mother of all living things and she holds her heart

(pronunciation key - x = sh as in show
r = gutteral aspiration as in French cri or the ch sound in German achtung
n = nasal sound as in sign
i = e as in eat
e = ei as in lei (the hawaiian necklace)
g'= g with voiced velar stop as in get
k'= k with voiced velar stop as in oak
pt= p't (no english word examples)

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THE PROPHECY OF THE STONE CHILD

The Lakota tell of a time, after the Cleansing, when there were four men, who lived as brothers, with a young woman they took as their sister. One morning, after the brothers had each gone hunting, one after the other, and did not return, the young woman climbed a high hill near their camp. Looking in each direction for her brothers, she began to cry as she realized that they may not return home. Her crying made her very thirsty so she picked up a small stone and put it in her mouth. She fell asleep and did not wake up until the evening, when she was cold.

Walking slowly, she returned to her tipi but she did not feel well and sat down to rest. Then she noticed that she was pregnant and grew afraid. How could this happen, she had never been with a man, the sight of her growing abdomen made her angry. Suddenly, she was in labor and quickly gave birth to a boy.

"This child, it is an evil thing," she thought as she tossed the newborn outside, through the doorway of her tipi. The child crawled back to her. Again, she picked him up and, although he was very heavy, threw him out the doorway. He walked back to her, a small young boy, and called her "Ina". Once again, she grabbed him up and dragged him through the doorway, this time he was very heavy and it took all of her strength. When he turned to enter the tipi again, he was a young man. She pushed him but could hardly move him. He smiled at her and said, "Mother, why do you fear me, your own child? Remember, when you sat on the hill today and you put a small rock in your mouth. That is me." She knew this was right and the child was her son. She called him Inyan Hok'xi and loved him.

Later, one day after the woman's brothers returned, Inyan Hok'xi went out to play. He came upon some bear cubs who were using buffalo rib sleds to slide down a long hill. He knew that the bear was the symbol of wisdom and was the most esteemed child of Maka. He desired their place.

The cubs called to him, "Inyan Hok'xi, come and slide with us. You can sit at the front and feel the snow blowing in your face. We will let you steer." He looked at them and said, "I will play with you, but only if I ride in the back." He rode down the hill a few times with the cubs, and they all laughed together. Then on the next ride, he suddenly turned himself into a large boulder and smashed the cubs. Laughing, he ran away. He knew that all would fear the one who killed a child so special. All would clear a path for the one who would crush wisdom.

Sometime later that, Inyan Hok'xi went out hunting food for his mother. He came upon a Tata Gnaxkiya who was sharpening his horns. He asked, "Grandfather, why do you sharpen your horns? Are you planning to fight?"

Not looking up, the Tata Gnaxkiya responded, "A special sanctuary for the beloved children to live in, there to do their duty. Now someone who must not value the life of all things altogether has killed them. They say he is called Inyan Hok'xi. We prepare for a battle of revenge. I am old, but I hope for at least a piece of the root of the tree."

Inyan Hok'xi, knowing the Tata Gnaxkiya did not recognize him, questioned, "When will this day be, Grandfather?" The Tata Gnaxkiya, continuing to sharpen his horns and answered, "On a day that is different."

"Each day is different from all of the rest. How will that day be different from any other?" Inyan Hok'xi asked.

"The war will be on the day of blowing skies," responded the Tata Gnaxkiya. "When I sing my song of victory, the moon will turn orange and Maka will stagger in her path. That day, too, will be different."

Inyan Hok'xi returned home. He told his mother and uncles to gather stones of red, black, and white, and bring these to him. He made a circle of the red stones all around their tipi. Next to that, he made a larger circle of black stones, and on the outside of those two rings he made a very large circle of white stones. When his mother asked why he wanted the rocks and why he had used them to make circles around the tipi, he told her, "I prepare for a day of blowing skies".

Early one morning, a meadowlark sat upon the tips of the lodge poles and sang a song, "Look there. The skies are blowing. This day belongs to the Stone Child". Inyan Hok'xi told his family to prepare for battle and went to the circle of the white stones. He picked up two of the stones and hit them together. Suddenly, a high wall of white stone emerged with small openings for shooting scattered here and there.

The ground was trembling, as though frightened. Now, the Tata Gnaxkiya arrived and sent the most reckless first. They begin their charge, like a wave of slime, when Inyan Hok'xi heard the meadowlark call out, "Through the opening you see in them."

As he prepared to shoot, he realized that he could see a hole clear through each creature. When he shot his arrow through that hole, they immediately fell to the side. Others killed themselves smashing into the stone wall. But they were many, and soon begin to break down the white barrier.

Calling his uncles to step back to the ring of black stones, Inyan Hok'xi picked up two of the black stones and hit them together. But one uncle chose not come and he was left outside of the black ring. Immediately, a wall of black stone emerged, higher than the white one and thicker. He continued to shoot and kill many, while others smashed themselves into the black stone wall.

Still, they came like waves of the great waters, until the black stone barrier began to weaken. Again, he called to his uncles, telling them to get behind the circle of red stones. And once again, one uncle did not come.

When he hit together two of the red stones, a high barrier like a tipi grew and surrounded them completely. Inyan Hok'xi and his two last uncles kept shooting and killed many of the creatures. Suddenly, one of the Tata Gnaxkiya, his horns bent and his head bloody from smashing into the red barrier, called out, "Save this (for another day). Inyan Hok'xi will use you up". The survivors all turned and retreated, dragging their tails as they went.

Understanding the Prophecy of the Stone Child

One Lakota century (112 years) after man causes the bear to leave the Black Hills, the Lakota will be at a time of war (the day of the blowing skies). This war will be the hardest of all wars, for it will be a war of ideas and principles, as well as one of survival for the Earth. It is simple to kill an enemy or thing with a weapon, but to change his mind and make him think like you while leaving you alone is the hardest of all challenges.

The red stone circle of the final retreat, from where the war is finally won, is the race track of red stone that circles around the Black Hills. The Black Hills are the Heart of Everything That Is - spiritual center of the universe.

The Tata Gnaxkiya (ta - from taya - monster; tata is the superlative sense of the word; Gnaxkiya - gnaxki is the child of Unk who is the principle of evil; ya - to be from` are representative of evil forces and evil choices.

"A special home for the bear" is the Bear Lodge (Devil's Tower) of the Black Hills.

The bear was the first of the two-legged children of the earth and is the symbol of quiet wisdom. In the legend of the Run of the Children of the Earth Around The Heart of Everything That Is, the winged are concerned with preserving wisdom. Because the winged believed that life cannot have quality without wisdom, they won the race and, incidentally, won life for humans = the other two-legged.

The "root of the tree" is a reference to the center of the Lakota "Hocoka" (sacred hoop), where stands the sacred tree.

In the Prophecy of the Stone Child, the representation of evil aligning self with good, in this case the esteemed child of the earth - the bear, is a lesson that evil will hide behind goodness (thereby corrupting even wisdom) to achieve its own ends.

The moon turning orange is a symbol of disruption in the balance of wiconi/wicunt'e (the power to make live and the power to destroy).

The earth staggering in her path is a symbol of final destruction as the earth is dying.

The uncles, mother, and the Stone Child are a family of choice who, while not related, come together and choose to be a family.

In the flight to the final sanctuary, some, as the uncles who remained at crumbling walls, will make the choice to stay behind. A choice will have to be made to leave them behind as the few choose to return to the central shelter.

Maka = "I am from the beginning" (the earth), the first & real mother.

The red tipi represents two principles; xa an adornment that is shown as red, tipi = the family is the core or foundation of the nation.

Pronounciation Key:
x = "sh" as in show
i = "e" as in even
c = "ch" as in choke
n = nasal "n" as in sign
t' = velar stop, no equivalent in English
k' = velar stop as in hook
e = "ay" as in way
a = "o" as in hot
k = "k" as in French cr or German ach
o = "o" as in over

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LAKOTA STAR KNOWLEDGE AND THE BLACK HILLS

By Ronald Goodman and Stanley Red Bird

"The Black Hills is the heart of our home and the home of our heart..."
(David Blue Thunder, deceased Lakota elder)

The Black Hills and the Sacred Oral Tradition

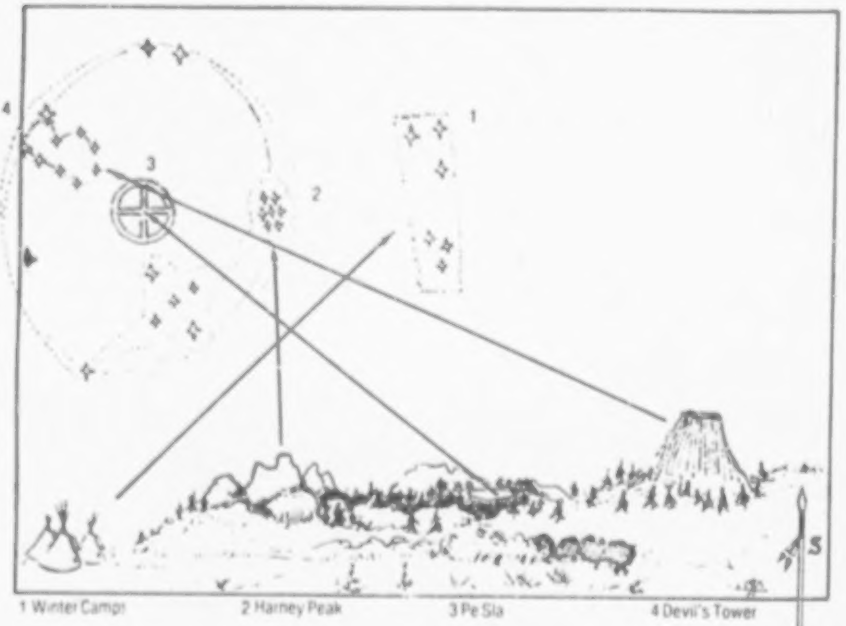
"The Black Hills is the heart of our home and the home of our heart." These words by the late Mr. David Blue Thunder, who was a holy man on the Rosebud Sioux Reservation in South Dakota, aptly summarize the findings of the "Lakota Star Project." This research project, conducted during the past three years under the auspices of Sinte Gleska College, substantiates what the Elders have always taught: namely, that an ancient and sacred relationship exists between the Lakota people, the stars, the sun and the Black Hills.

The Black Hills

The knowledge contained in this abstract was presented at the First International Ethnoastronomy Conference sponsored by the Smithsonian Institution, September, 1983, Washington, D.C.

Lakota Constellations and the Oral Tradition

The stars were the visible "scriptures" of the Lakota at night; and the related land forms were the visible "scriptures" during the day. Both day and night on the prairie the people walked between sacred stories written in the sky and on the earth. The vital link between the constellations and the earth sites was established by stories from the Lakota Oral Tradition; stories communicated by the Elders to each generation.



Lakota constellations on the ecliptic correlated by sacred stories to distinctive land forms.

1) Cansasa Ipusye — the winter camps.
2) Wicincala Sakowin — Harney Peak.
3) Center of Ki Inyanka Ocanku — Pe Sla (Treeless Meadow in the Black Hills).
4) Mato Tipila — Devil's Tower.

As Easter and Christmas are associated with particular places and special times of the year, the stellar theology of the Lakota people in pre reservation days required them to go to particular places in the Black Hills at precise times each year for worship services. religious fidelity required that they follow the instructions given by the Creator to make the right ceremonies at the right places at the right times. This is similar to the Three Wise Men who knew that at a certain time they should follow a certain star to a certain place in Judea.

Annual Spring Pilgrimage Through The Black Hills

Each spring there was a direct correlation between the movement of the sun (counterclockwise) through the stars, and the annual spring journey (or pilgrimage) of the Lakota people from one sacred land site to another (clockwise) through the Black Hills.

The people were following the sun's path on earth. They were doing a ceremony on earth as it was being done simultaneously in the heavens.

When the sun is in the Lakota constellation	The people will be at	Time and ceremony
Cansasa Ipusye ("dried Willow")	Winter Camps (in Nebraska and western South Dakota)	Spring equinox (Pipe ceremony)
Wicincala Sakowin (Seven Little Girls)	Hinhan Kaka Paha (Harney Peak)	Welcoming back the thunders Yate iwakicipi
Ki Inyanka Ocanku (race track) or Can Gleska Wakan (The Sacred Hoop) & Tayamini	Pe Sla (center of Black Hills)	Welcoming back all life in peace Okislataya wowahwala
Mato Tipila ("The Bear's Lodge")	Mato Tipila Paha (Devil's Tower)	Summer Solstice (Sun Dance)

Establishing a Date for the Lakota Constellations

The science of astronomy is able to calculate with considerable precision the time in history when the Lakota people first began to synchronize their movements on the Plains and their ceremonies to the motion of the sun through the stars on the ecliptic. According to their mathematical calculations this occurred about 3000 years ago (1000 B.C.). For several thousand years, therefore, the Black Hills have been the very center of the spiritual universe of the Lakota people.

When the reservation period began for the Lakota about 100 years ago, the religious ceremonies and observances were outlawed and forced underground where the embers of faith and spiritual knowledge have been kept alive by a dedicated few. During the past 20 years those embers have been kindled anew. The ceremonies (no longer illegal) have surfaced again. As Lakota and even non-Indians have been responding to the voice of God in Lakota ceremony, the fundamental importance of the Black Hills is also re-emerging in the People's minds and hearts.

If, therefore, the Lakota are asking that something be returned to them, we can know what that "something" is, because truly the Black Hills is the heart of their home, and the home of their heart.

Sacred Above Is Like Sacred Below

The ceremonies enacted in the Black Hills were a religious duty. The Lakota were required to participate with the Sacred Powers of Good in the annual renewal of life on earth. This teaching can be clearly seen in two constellations associated with the Black Hills.

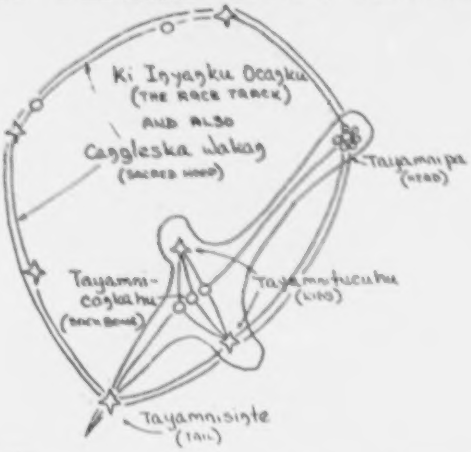
The great circle of stars represents many things. One, it mirrors the two-mile wide Red Valley which encircles the entire Black Hills. Oral Tradition tells of a race between the four-leggeds and the two-leggeds which occurred in earliest times. The "race track" was created during this race.

The great circle also represents the "sacred hoop." In Lakota theology all life occurs within a never-ending, ever-recurring circle of time, space, matter and spirit. So the Black Hills is also viewed as the microcosmic hoop out of which, annually, new life is born on earth.

The second Black Hills constellation is called "Tayamni" (The First Born of the Three Relations). With separate stars designated as head, tail, backbone and ribs, this animal – the buffalo – symbolizing all life, is being born out of the hoop of stars.

Near the center of the Black Hills is a rocky outcrop which Lakota Elders call "Tayamni." In aerial photographs it bears a striking resemblance to the stellar image of the same name.

Mr. Stanley Looking Horse, current holder of the original Sacred Pipe at Green Grass on the Cheyenne River Sioux Reservation, has said, "When our grandfathers came onto the reservation they had three things: two hides and sticks. One hide was a star map. The other hide was an earth map marked with hills, rivers and buttes. These two maps were the same because what's on the earth is in the stars, and what's in the stars is on the earth. The sticks were for time, measuring time..." Thus, Sacred Above is like Sacred Below.



For Further Reading

1) Ethnoastronomy of the Lakota by Ronald Goodman, Stanley Red Bird, and other members of the Sinte Gleska College "Lakota Star Project"

2) Legends of the Lakota by James LaPointe

3) Ethnographic Notes by Father Eugene Beuchel

Available through : Sinte Gleska College
P.O. Box 490
Rosebud Sioux Reservation
Rosebud, S.D. 57570

Ask your Congressional Delegation to support the Sioux Nation Black Hills Bill. You may use the following form or compose your own letter.

Dear Congressperson
U.S. Senate/U.S. House of Representatives (underline one)
Washington, D.C., 20510

As my elected representative, I respectfully request that you vote in support of the **Sioux Nation Black Hills Act**. This legislation will restore federally controlled portions of the Black Hills to the Lakota people.

AMERICAN INDIAN NATIONAL BANK

PREPARED STATEMENT OF ALAN R. PARKER

Mr. Chairman and members of the Committee, I appreciate this opportunity to present testimony before your Committee on S.1453, the Sioux Nation Black Hills Act, regarding the investment and business development opportunities arising from the creation of a permanent trust fund as proposed under this legislation.

As a member of the Standing Rock Sioux Tribe, I was particularly pleased to be able to serve as Chairman of the Business and Investment Advisory Committee to the Black Hills Steering Committee, and my testimony represents a summary of the discussions of this Advisory Committee.

A very important assumption of that Advisory Committee was that the $110 million settlement appropriated in 1980, plus accumulated interest, would be invested on behalf of the members of the Sioux Nation in financial institutions of the Sioux Nation's choice. Further, the Committee assumed that the initial settlement monies would constitute a permanent trust fund while the accumulated interest plus interest earned annually might be used for the establishment of a business development and financing program exclusively directed at enhancing the economic position of the member Bands of the Sioux Nation. Consequently, one is really looking at two categories of funds; a fiduciary investment program, possibly managed by financial institutions located in the State of South Dakota, and a business investment program managed by a business organization to be created by the member tribes of the Sioux Nation.

As I am sure this Committee is aware, the funds appropriated by the U.S. Congress in 1980 as a judgement of the legal claim filed under the Indian Claims Act have been managed and invested by the Bureau of Indian Affairs (BIA) and currently amount to approximately $155 million. During this time, they have been placed in a variety of institutions all over the country according to a bidding system which the BIA Trust Funds Investment Office employs. Consequently, there has been no indirect benefits or positive impacts for either the members of the Sioux Nation or the State of South Dakota from the investment program other than the accumulation of income. On the other hand, if the funds were to be concentrated in financial institutions of the State of South Dakota, they could be put to work in a variety of ways that would greatly enhance the economy of South Dakota without exposing the trust funds to any risk of loss. Under the proposed legislation this choice would be available to the representatives of the member tribes of the Sioux Nation. It can also be assumed that a mutually beneficial relationship could be established between one or more South Dakota financial institutions and the business organization established by the Sioux Nation to invest the interest income from the judgement funds. Even though the trust funds would be invested in accordance with fiduciary standards and thus would not be available to be pledged as collateral for business financing, the commitment to keep a large amount of dollars in a particular institutions is a distinct advantage to that institution. Such a financial institution could compensate an investor in terms of products and services other than using the funds as security for financing.

The Investment and Business Development Advisory Committee to the Black Hills Steering Committee considered the experience of the Penobscot and Passamaquoddy tribes in the State of Maine as a valuable comparison to the opportunities confronting the Sioux Nation and the State of South Dakota. Mr. Tom Tureen, Attorney for the two tribes in Maine and currently the founder of Tribal Assets Management, an investment bank established to advise the tribes in the management of their claims monies, related their experiences to the Advisory Committee. His clients had essentially the same situation in that their claim settlement legislation required that the majority of the judgetment funds should be placed in a permanent trust fund and the remainder of the monies would be available for business investment. Through Tribal Assets Management, the two tribes have invested in a number of enterprises which have proven to be very successful from the point of view of financial return to the tribes and also from the point of view of their positive impact on the local economy.

The tribes have adopted a strategy of participating in the State's economy rather than confining their investment in business development interest exclusively to their respective reservation. As a result of this strategy, the tribes are considered to be respected business partners by the business community in the State and have gained considerable influence within the State as a direct consequence. Clearly, the member tribes of the Sioux Nation are confronted with an opportunity to adopt a similar strategy and it would be safe to predict that the business interests active in the South Dakota economy would also be quite responsive.

I believe it should be emphasized that the business objective of such a strategy would primarily be to make sound investments in successful businesses that generate a competitive return. The business organization created by the Sioux Nation would also incorporate a secondary objective of selecting businesses that generate employment opportunities for tribal members and subsidiary business opportunities for Indian entrepreneurs. This Committee is urged to evaluate the experiences of the Penobscot and Passamaquoddy tribes in order to consider how the provisions of this legislation could be refined to facilitate the development of a similar strategy.

This Committee also recently published A Compendium of Papers describing a proposed American Indian Development Finance Institution (S. PRT. 99-142 of the Senate Select Committee on Indian

Affairs.) This proposal represents the thinking of a number of Indian economists and business development specialists who undertook this research project in response to the recommendation of the American Indian Policy Review Commission (AIPRC) to create a development bank to serve Indian country. Although this research project has not yet resulted in any particular legislative proposals, it does contain a description of a kind of business organization that could be created to manage the business investment funds authorized under the Sioux Nation Black Hills Act.

Briefly, what is proposed therein is a stock corporation that would oversee: 1) a business investment organization; 2) a direct loan and loan guarantee program; and, 3) a business development office. Stock in the corporation would be issued to the member tribes of the Sioux Nation in accordance with their pro-rata rights to the judgement funds (i.e. each tribe would receive a percentage of the stock based on its per capita share). Each member tribe would be responsible for selecting a representative to the Board of the stock corporation who would be empowered to vote by proxy the shares of the tribe and to otherwise oversee the operation of the business organization.

The business would have equity capital available of approximately $45 million (the interest income earned from 1980 on the $110 million judgement) and would have an income stream that is generated by the permanent trust fund. A trust fund of that amount should be able to generate a yield of at least 10%, creating an income of approximately $11 million per year. A rule of thumb that can be applied to such equity capital is that every dollar should be able to leverage ten dollars. Consequently, once it is established, the business organization should be able to generate financing of approximately $500 million. If the stream of income from the permanent trust fund was available to be obligated (i.e. leveraged) to secure financing over a ten year period, one could project a financing capability from that source of excess of $110 million. The AIDFI papers describe in great detail the business principles which should be incorporated into the investment and business development organization that is proposed in order to insure fiscal accountability and sound management. An organization with this financing capability would clearly be a major economic force in the State of South Dakota.

Finally, it should be pointed out that the permanent trust fund need not remain the same value but if properly managed could expect to grow in size (capital appreciation) while at the same time generating a source of investment income.

This discussion obviously only scratches the surface of the potential that is described in the Sioux Nation Black Hills Act. I recognize that a great many complex and controversal issues follow the other provisions of this legislation and that our purpose this morning is to make a record of testimony that the Committee may consider as it uses this legislative proposal as a point of departure. Nevertheless, I believe that the members of the Black Hills Steering Committee are to be greatly commended for their efforts in proposing a settlement which addresses the long standing cultural and religious goals of the Sioux Nation with respect to the Black Hills, while at the same time showing how the situation can be turned into an extremely positive development for the State of South Dakota, as well as the Sioux Nation.

It appears that the members of the Sioux Nation will hold fast in their determination to not simply accept the judgement monies, but to gain access and use rights to the Black Hills. The historical records clearly shows that the monetary judgement awarded in 1980 falls far short of what was actually extracted just from gold mining, not to mention the income generating uses of the Black Hills over the years. If the Congress would seriously consider the proposals for cultural and religious uses of the land as a legitimate response to the aspirations of the Sioux Nation, then the benefits to be derived from the investment and business development program organized with the judgement monies is simply an added incentive. What the Committee is confronted with is the opportunity to not only resolve a difficult problem, but to go forward with a solution that will benefit all of the parties concerned. I urge the Committee to seriously move forward with a Committee version of legislation that will incorporate all the positive developments that have been brought forward during these years.

I shall be pleased to answer any questions the Committee may have. This concludes my prepared statement.

OMAHA TRIBE OF NEBRASKA

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Macy, Nebraska 68039

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PREPARED STATEMENT OF LEMUEL A. HARLAN

Mr. Chairman, my name is Lemuel A. Harlan and I am the Secretary of the Tribal Council of the Omaha Tribe of Nebraska and I appreciate this opportunity to present testimony in support of Senate 1453 to the Senate Select Committee on Indian Affairs.

I am here, today, to urge you to approve this very important legislation, report it favorably out of committee and vote for its adoption. The Sioux Nation Black Hills Act was developed over a two and one-half year time period. Careful attention was given to articulating and incorporating Sioux philosophical principles into the legislation. You will find that the Sioux Nation Black Hills Act is tightly drafted, is fair, and most importantly it provides the United States of America with an avenue for correcting what has been a blemish on the record of the Congress for more than 109 years.

Mr. Chairman, we believe in the principles of freedom of religion, the right to own property and have that right protected by the laws of this great nation and we believe in justice.

The Black Hills is not just another local Indian issue, the Black Hills taking has been cited by the courts as "(a) more ripe and rank case of dishonorable dealing will never, in all probability, be found in the history of our nation". It was the Congress of the United States that took the Black Hills and it is the Congress that can now return the Black Hills to the Sioux Nation. What is asked for in S. 1453 is fair and we think it is time for Congress to take the courageous step of writing that chapter of honor in the history of the United States' dealings with the Sioux Nation.

Thank you for providing me with this opportunity to present testimony.

Sincerely,

Lemuel A. Harlan

Lemuel A. Harlan
For the Omaha Tribe of Nebraska

PREPARED STATEMENT OF REGINALD BIRD HORSE

My name is Reginald Bird Horse, I am a descendent of Running Antelope who was a headsman of the Hunkpapa band. I thank you for the opportunity of permitting me to testify before you on the issue of the restoration of our Sacred Black Hills to our people. I will address S.1453 and also provide background information for the record.

I am speaking on behalf of the Black Hills Sioux Nation Treaty Council. I am the vice-president of this organization. We have a charter which has been approved by all of the tribes involved in the Black Hills claim. We have the authority to advise the tribes on treaty-related matters. We are the descendents of those who signed the Fort Laramie Treaty in 1868.

Our organization's members are from the reservations now designated as Cheyenne River, Crow Creek, Fort Peck, Lower Brule, Pine Ridge, Rosebud, Santee and Standing Rock.

In Canada today, our Lakota and Dakota relatives live on these Reserves: Sioux Wahpeton (Round Plain), Moose Woods (White Cap), Standing Buffalo, Wood Mountain, Bird Tail, Sioux Valley (Oak River) Oak Lake, Sioux Village and Long Plain.

I describe this because sometimes there is confusion about who the Lakota and Dakota are. Our Nation was called Očetiyotipi Sakonwin or Seven Council Fires.

These seven Oceti are:

(1) M'de Wakanton
(2) Wahpetonwan
(3) Sissitonwan
(4) Wahpekute
(5) Inyantonwan (Yankton)
(6) Inyantonwanan (Yanktonais)
(7) Titonhan

Each Oceti had such a large territory that it was divided into a number of Oyate or bands and then further divided into Tiyospaye or families.

In our hearts and minds, we are still members of the bands, Hunkpapa, Lower and Upper Brule, Oglala, Sans Arc, Sihasapa or Blackfeet, Miniconjou, Two Kettle, Upper Yanktonai or Cuthead, Lower Yanktonai or Hunkpatina, and so on. You probably know that in the late 1850's the U.S. Army began to split our bands up so that as an example, today four bands, the Hunkpapa, the Upper Yanktonai, the Lower Yanktonai and the Sihasapa reside on the Standing Rock Reservation.

Our people speak three dialects, Lakota, Nakoda, and Dakota. Our aboriginal territory stretched from Wisconsin to the Big Horn Mountains in Montana and Wyoming and from Prince Albert in Saskatchewan and the Assiniboine River in Manitoba south to Iowa and Nebraska.

One thing is very clear to us: Since the beginning of time, our Lakota and Dakota Nation has traditionally occupied and owned jointly all of the lands we have ever possessed and we have always had absolute title to these lands.

This is something we all agree upon.

We of the Black Hills Sioux Nation Council are happy that this Committee is willing to hear from the traditional people on the Black Hills. We thank you for this hearing but we believe you cannot know the whole story unless you can hear the words of the other Lakota/Dakota traditional people and elders.

Our Treaty Council has had many meetings over the years on the Black Hills. Our traditionals and elders have deep knowledge about the history and sacredness of the Black Hills.

But they aren't here to tell you because they are too poor to afford the airplane trip and the hotel. They have no jobs and no one will put up the dollars for them.

We had a Black Hills meeting at Green Grass, South Dakota on June 11-14, 1986 and these people wanted to come here to testify today: Oliver Red Cloud, Garfield Grassrope, Matthew King, Maurice Wounded, Pete Fills the Pipe, Dan Defender, Simon Broken Leg, John Long, Antoine Black Feather, Joseph Walker, Stanley Looking Horse, David Spotted Horse, Philomene One Feather, Reginald Cedar Face and Paul High Bear, among others.

They couldn't come but some of them chipped in to get me here. I respectfully ask that you hold another hearing in Sioux country so that this Committee can hear from these wonderful people who have the knowledge to give you the whole story. Then you would have the complete record on the Black Hills. You would understand how we feel about the sacredness of these lands and why restoration is necessary.

There are thousands of us who believe, as our ancestors before us have believed, that Paha Sapa (the Black Hills) is very, very holy. All of the Black Hills is like a temple to us. There are certain places in Paha Sapa like Wind Cave and Mahto Tipi (Devils Tower to some) that are emergence sites for some of our people. There are numerous places where our sacred ceremonies are still held.

I want to stress this point and the traditionals and elders want to stress this spiritual understanding with you because it is central to any bill that would restore the Paha Sapa aboriginal lands to our people.

Some of our old people say that no other people in the world would allow their religion and places of worship to be degraded like our Sacred Paha Sapa is degraded. Our traditional people see crass commercial enterprises like the Flintstones and Snake farms all over Paha Sapa, they see mining and timber operations that gouge out the breast of our mother.

For seven generations we have seen this and have cried. Now it is time for all this to stop. We want a bill from the Congress, maybe from your Committee that will help us to protect the Black Hills from such blasphemy from now on.

We thank Mr. Bradley for his courage in introducing S.1453 and his understanding that there is a need "to preserve the sacred Black Hills from descretation." We thank him for the accuracy of the Section 2 Findings.

We of the Black Hills Sioux Nation Treaty Council feel that too many of us didn't get a chance to give input on some of the other sections.

The Lakota/Dakota Nation takes the Fort Laramie Treaty of 1868 very seriously. We respect all treaties between Nations and know that treaties are internationally binding.

I will repeat Article 12 of the 1868 Treaty here because of its importance to the restoration of Paha Sapa.

"Article 12. No treaty for the cession of any portion or part of the reservation herein described which may be held in common shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of the adult male Indians, occupying or interested in the same;

and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him, as provided in article 6 of this treaty."

This Article 12 and all of the 1868 Treaty is as important and valid today as it was 118 years ago. Just 33 days ago the Black Hill Sioux Nation Treaty Council approved unanimously a resolution that said: "Resolved that the three quarters male vote provision of the Fort Laramie Treaty on land issues must be adhered to, except that Lakota and Dakota women may vote on other issues related to the Sioux Nation."

While we all have agreed that the Black Hills must be restored to us, there has not been a vote on the amount of acreage that should be included in a Black Hills restoration bill.

Our resolution of October 29, 1983 was reaffirmed on June 14, 1986 that any proposed Black Hills acreage bill must be ratified by a 3/4s male vote as required in Article 12 of the 1868 Fort Laramie Treaty.

We believe that only one or two people want the restoration of only 1.3 million acres as is presently described in S.1453. Some people talk about the restoration of 6 million acres. There is no concensus yet.

The Black Hills Sioux Nation Treaty Council for now and for our future generations requires all of the acreage that is described in Article II of the Ft. Laramie Treaty, except that we do not claim the Ponca lands that were mistakenly included as Sioux lands in the 1868 Treaty.

We are aware that in the 1851 Treaty of Fort Laramie, (11 Stat. 749, 2 Kapp. 594, the United States recognized that the "Sioux or Dakotah Nation" possessed title to approximately 60 million acres of land in what is now North Dakota, South Dakota, Nebraska, Wyoming and Montana. (See Sioux Tribe v. United States 205 Ct. Cl. 148, 155, 500F.2d 458, 460.)

Our position is that three quarters of the Lakota/Dakota male adults must vote on the acreage to be included in a Black Hills restoration bill before the Congress.

According to the Bureau of Indian Affairs, the total Lakota/Dakota population in January of 1985 was 64,152. Forty two thousand three hundred and forty (or 2/3rds) of this population were adults over 16 years of age. An estimated 21,170 of this adult population were male.

Fifteen thousand, eight hundred and seventy-seven (15,877) males must vote on the Black Hills acreage to be restored, in order to uphold the 1868 Fort Laramie Treaty.

In Section 5 (F) (b) (2) of S.1453, we believe that the phrase "any purpose" is too broad.

In Section 5 (F) (b) (4) (A), we believe that Mount Rushmore must be conveyed.

In Section 5 (F) (b) (4) (B), we believe that the operation of concessions is contrary to the sacredness of Paha Sapa.

In Section 6, we find the references to South Dakota law irrelevant.

In Section 8, we are concerned that the phrase "used or occupied for the same purposes" may be contrary to the sacredness of Paha Sapa.

In Section 9, we implore that language be inserted to bring about the earliest restoration of Bear Butte because of its importance to our religion.

In Section 10, we believe that our people must talk seriously in the next few months about how monies in compensation for the loss of the use of lands from 1877 to the effective date of the Black Hills Act, should be spent. In our caring for one another, we know that care must be given to our elderly, we must give care and support to our children who have been orphaned and neglected, we must provide health care to the people who are diseased and sick and who the Indian Health Service can't care for because they are with out funds, we need to build homes for our homeless, we need to provide monies for scholarships because too many of our youth are turned away from the B.I.A., too many of our people need to be fed and clothed, our people need worthwhile jobs. We will talk about all this and decide.

In Section 11, we believe that the broad accessability is contrary to the sacredness of Paha Sapa. We believe all of Paha Sapa is sacred. We insist that "Devils Tower" be referred to by the correct name, Mato Tipi or Bear's Lodge. We have serious questions about the establishment of a park in the same sense that parks are usually thought of by white society.

In Section 12, we believe that the "respect for the earth" concept must be brought into effect immediately. We have been waiting 118 years for this "respect for the earth" to happen again within our sacred Paha Sapa.

In Section 16, we believe that the provisions regarding mineral leases (including oil and gas leases), grazing permits, and timber leases, in that they would continue "in full force and effect", are contrary to the sacredness of Paha Sapa and our religious beliefs and practices.

We are in agreement with the Senate Select Committee on Indian Affairs that a good, honest and fair Black Hills bill can be prepared and introduced.

We ask for your help.

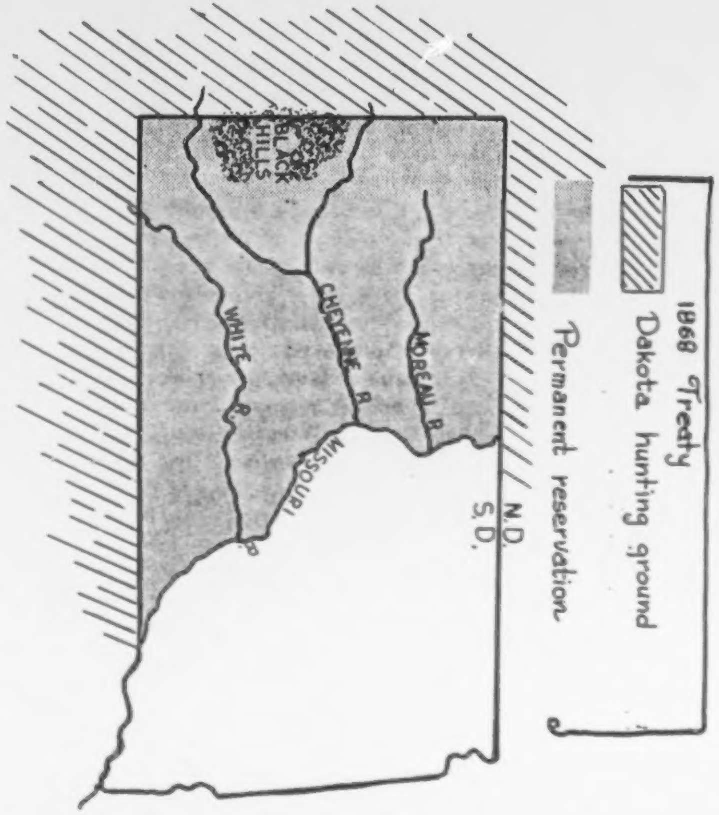
We will do all we can to reach concensus on these questionable sections. We need to have monies for our meeting expenses and research, and we request your help in finding flexible fededal money so that we can pull the needed information together. The 3/4's male vote on acreage will require the expenditure of considerable time and money.

We believe in this Committee's good will and good faith in overcoming the Supreme Court's 1985 finding that "the federal government's dealings with the Sioux Tribe have been egregious and unfair."

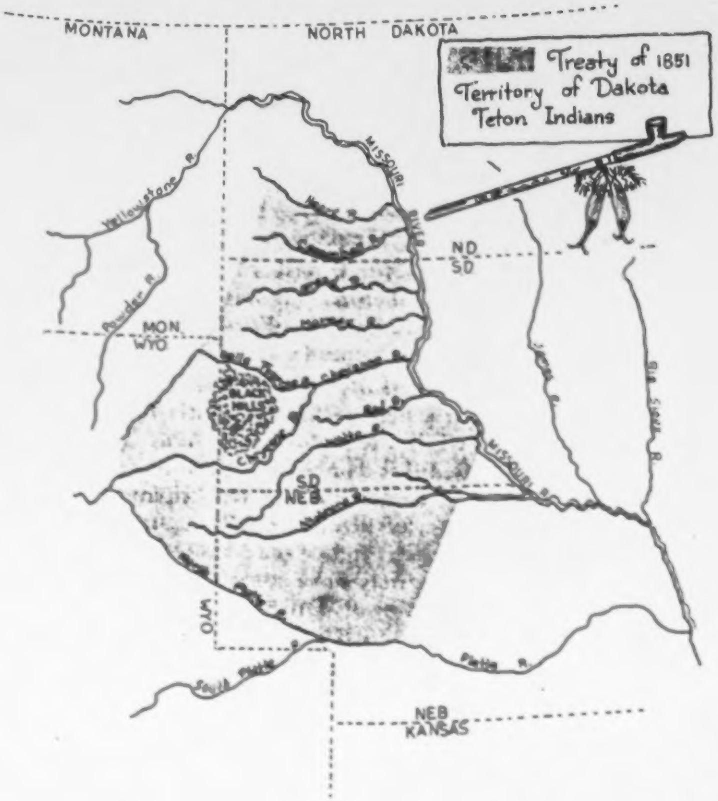
We will appreciate everything you Senators can do to help us to get a fair bill introduced in the 100th Congress so that at long last our Sacred Paha Sapa will be restored to us.

Thank you for listening to our testimony. We will remember all of you in our prayers to the Creator.

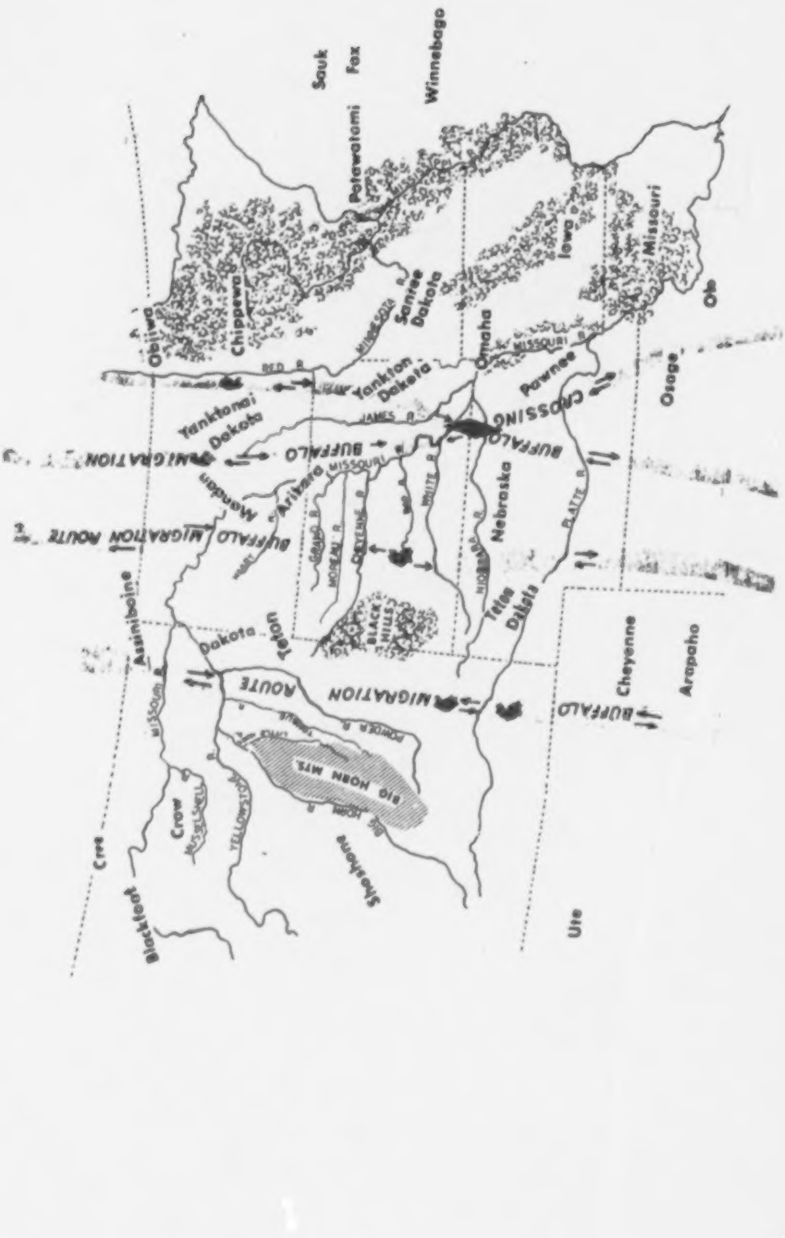
Indian Territory by Treaty 1868


1868 Treaty
▨ Dakota hunting ground
▒ Permanent reservation
N.D.
S.D.
MOREAU R.
CHEYENNE R.
WHITE R.
MISSOURI R.
BLACK HILLS

Indian Territory 1851


▒ Treaty of 1851
Territory of Dakota
Teton Indians
MONTANA
NORTH DAKOTA
ND
SD
MON
WYO
SD
NEB
NEB
KANSAS
WYO
MISSOURI RIVER
MISSOURI R.
Yellowstone R.
Powder R.
Heart R.
BLACK HILLS
Bad R.
White R.
James R.
Big Sioux R.
Platte R.
South Platte R.

Indian Tribes


Sauk
Fox
Winnebago
Potawatomi
Ojibwa
Chippewa
Santee Dakota
Iowa
Missouri
Oto
Omaha
Pawnee
Osage
Yanktonai Dakota
Yankton Dakota
Mandan
Arikara
Nebraska
Teton Dakota
Assiniboine
Dakota
Teton
Cheyenne
Arapaho
Crow
Cree
Blackfoot
Shoshone
Ute
BLACK HILLS
BIG HORN MTS.
BUFFALO MIGRATION ROUTE
BUFFALO MIGRATION ROUTE
BUFFALO MIGRATION ROUTE
BUFFALO MIGRATION ROUTE
RED R.
MINNESOTA R.
JAMES R.
MISSOURI
MISSOURI R.
WHITE R.
NIOBRARA R.
PLATTE R.
GRAND R.
MOREAU R.
CHEYENNE R.
POWDER R.
BIG HORN R.
YELLOWSTONE R.
MUSSELSHELL
MISSOURI R.

BLACK HILLS SIOUX NATION TREATY COUNCIL

Resolution No. S. N. 68 - 8602

Resolution, rejecting and testifies against the Bradley Bill H. R. 3651 now in Senate Select Committee for hearing on July 16, 1986 in conjunction with 1453 July 17, 1985, and

WHEREAS, Prior to the existence of the Bradley Bill, during a regular session at Lower Brule, South Dakota Indian Reservation on October 29, 1983 a resolution was passed by a vote of seventeen (17) for, none against with six (6)Indian Reservations present, and rejected the Black Hills act formulated by the Black Hills Steering Committee, a United States Constitutionally organized vested interest group representing Wheeler-Howard act tribal Councils that is an extention of the United States Government, and

WHEREAS, Black Hills Sioux Nation Treaty Council held it's regular session on June 14, 1986 at Green Grass, Cheyenne River Indian Reservation, Eagle Butte, South Dakota with a quorum of five (5) Indian Reservations, who reaffirmed and absolutely rejected the Gerald Clifford's Black Hills Steering Committee's Bradley Bill H. R. 3651 and 1453 by unanimous vote to substantiate in relevant to previous action that was taken, and

WHEREAS, Black Hills Sioux Nation Treaty Council held another regular session at Rosebud, South Dakota Indian Reservation on July 6, 1986 with five (5) Indian Reservations present, and re-affirmed the above mentioned resolution, rejecting the Bradley Bill, and

WHEREAS, Sioux Nation Treaty Council is composed of the original Indian people from eight (8) Indian Reservations within this great Country, who have originate prior to the 1934 Wheeler-Howard act (The Indian Reorganisation act) (Public-No. 383-73d Congress) 48 Stat. 984 S. 3645, and since 1932 have a Traditional Indian Government pursuant to the whitemen's tribal council system of June 18, 1934 that violates it's own guide lines and requirements and don't allow the expressed knowledge and consent by resolution of the tribal members of their respective community and that is a direct violation of due process of Civil Rights Laws that have applied to Federal regulations, and

WHEREAS, the Gerald Clifford's Steering Committee is acting contrary to those articles in each Indian Tribes Constitution and By-Laws relating to the Black Hills Sioux Nation Council, was invalid by reason of misrepresention and without the sanction of the Sioux Nation Council, that the proposed act was not ratified by 3/4 adult male vote,article 12, of the 1868 Ft. Laramie Treaty with "No Official Membership"to apply too, and

NOW THEREFORE BE IT RESOLVED, that the Bradley Bill be abolished and filed with Federal Officials, United Nation's Secretary General and International Court Of Justice, and

Be it further Resolved, the Black Hills Sioux Nation Treaty Council in the future will be consulted prior to introduction of Bills into Congress on Legal issues of Land, Money, Minerals, Resources, Water developments, Natural resources and etc, related to "Treaty Agreement"

-Certification-

I, as under Acting Secretary of the Black Hills Sioux Nation Treaty Council do hereby certify this resolution is adopted by the Black Hills Sioux Nation Treaty Council at Rosebud, South Dakota Indian Reservation by a vote of 36 for, 6 against, 0 not voting, with a quorum of five (5) Indian Reservations present to constitute a Legal council session.

Attest;

Oliver Red Cloud
(Chairman) Black Hills Sioux Nation
Treaty Council
Pine Ridge Indian Reservation
Pine Ridge, South Dakota 57770

John W. Long Sr.
(Secretary) Black Hills Sioux Nation
Treaty Council
Pine Ridge Indian Reservation
Pine Ridge, South Dakota 57770

Reginald Bird Horse
(Spokesman) Black Hills Sioux Nation
Treaty Council

Pete Fills the Pipe Sr
Antoine Black Feather
Simon Broken Leg

Treaty Members

Maurice Wounded
Sam M Eaglestaff
Joseph Flying Bye
Joseph A. Walker.

Black Hills Sioux Nation Council

MEMBER RESERVATIONS
Cheyenne River
Crow Creek
Fort Peck
Lower Brule
Pine Ridge
Rosebud
Santee
Standing Rock

RESOLUTION

to reject the Sioux Nation Black Hills ACT formulated by the Black Hills Steering Committee, a United States Constitutionally organized vested interest group, representing Wheeler-Howard Act tribal governments.

Whereas, the Black Hills Steering Committee has an ACT drafted, September,,1983, and

Whereas, the Steering Committee has acted without the authority from the Black Hills Sioux Nation Council, and

Whereas, the Steering Committee is trying to replace the traditional government to benefit the tribal constitutional governments, and

Whereas, the Steering Committee represents the Constitutional government, an extention of the United States government, and

Whereas, the Steering Committee is acting contrary to those article(s) in each tribes Constitution and By-laws relating to the Black Hills Sioux Nation Council, now

Therefore Be It Resolved, that the proposed ACT was not ratified by 3/4 Adult male vote, Article XII, 1868 Ft. Laramie treaty, contrary to the Supreme Law of the land, inconsistant with treaty law, and

Be It Further Resolved, that the Black Hills Sioux Nation Council hereby declares the proposed ACT as invalid by reason of misrepresentation and action taken without the sanction of the Black Hills Sioux Nation Council.

++

CERTIFICATION

I hereby certify that the above resolution was passed at the October 29, 1983 meeting of the Black Hills Sioux Nation Council at Lower Brule, South Dakota. Was passed by a vote of 17 for, none against and had a quorum of six reservation represented.

/recording Secretary
Black Hills Sioux Nation Council

ATTEST
Chairman/Black Hills Sioux
Nation Council

NATIONAL CONGRESS OF AMERICAN INDIANS
Est. 1944

EXECUTIVE DIRECTOR
Suzan Shown Harjo
Cheyenne & Creek Nations

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Winnebago Tribe

FIRST VICE PRESIDENT
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RECORDING SECRETARY
Faith Mayhew
Klamath Tribe

TREASURER
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Poarch Band of Creeks

AREA VICE PRESIDENTS

ABERDEEN AREA
John W. Steele
Oglala Sioux Tribe

ALBUQUERQUE AREA
[illegible]
Zia Pueblo

ANADARKO AREA
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Kiowa Tribe

BILLINGS AREA
Burnell L. Whiteplume
Northern Arapahoe Tribe

JUNEAU AREA
Eric Morrison
Tlingit

MINNEAPOLIS AREA
Hilary Waukau
Menominee Tribe

MUSKOGEE AREA
Pamela Iron
Cherokee Nation

NORTHEASTERN AREA
[illegible]
Seneca Nation

PHOENIX AREA
Thomas R. White
Gila River Indian Community

PORTLAND AREA
Allen V. Pinkham, Sr
Nez Perce Tribe

SACRAMENTO AREA
Denis Turner
Rincon Band of Luiseno

SOUTHEASTERN AREA
Billy Cypress
Miccosukee Tribe

PREPARED STATEMENT OF SUZAN S. HARJO

Mr. Chairman and Members of the Committee, on behalf of the Indian and Native governmental and individual members of the National Congress of American Indians (NCAI), I thank you for providing the opportunity for us to express our strong support for the enactment of S. 1453, the Sioux Nation Black Hills Act. We also want to express our appreciation to Senator Bill Bradley and Representative James Howard for their introduction of this legislation designed to bring some justice to a situation which now blatantly disregards the Lakota and Dakota peoples' legal, human and religious rights. While a century of denial to the Sioux Nation of its most sacred lands and of its place of origin cannot be undone, S. 1453 represents a realistic opportunity to acknowledge past wrongs and mitigate the situation for the current and future generations of Indian people.

This legislation is a product of two and a half years of meetings to arrive at a consensus among the Sioux Tribes on the bill. The legislation also should be viewed in the context of over a century of consistent effort by Sioux people to regain their lands. The Sioux Nation Black Hills Act can be the turning point in this century of work to restore some of the stolen lands. The effort will never end until justice is obtained.

The National Congress of American Indians strongly supports the Sioux Nation Black Hills Act. NCAI is the largest national Indian organization, with standing membership resolutions over its 42-year history from more than 75% of the Indian and Native governments. At our 42nd Annual NCAI convention in Tulsa, Oklahoma, October 7-11, 1985, there were 129 Indian and Native governments officially represented by duly-authorized delegates with voting privileges, along with more than 1,000 Indian and Native individual voters. The delegates approved a resolution in support of S. 1453, the Sioux Nation Black Hills Act. Prior to the introduction of S. 1453, NCAI officially endorsed return of land reserved in the 1868 Ft. Laramie Treaty to the Sioux Nation. I would point out that not

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only was a resolution in support of S. 1453 introduced at our Tulsa Convention by John Steele, an Oglala and an NCAI Area Vice President, but the Affiliated Tribes of Northwest Indians also presented to the Convention a resolution in support of the legislation which had been previously adopted by their 1985 Annual Convention. Attached is a copy of that resolution.

There is national and international recognition that the United States government acted in an illegal and shameful manner regarding lands reserved for the Sioux in the 1868 Ft. Laramie Treaty. In that Treaty, the Sioux Tribes reserved the land west of the Missouri River in South Dakota and also established hunting grounds covering large parts of North Dakota, Wyoming, Colorado, Kansas and Nebraska. Article Twelve of the Treaty provides that no cession of any portion of the Indian lands could occur without the written consent of three-quarters of the adult Sioux males. Article Sixteen of the Treaty provides that no white person could settle upon, occupy or pass through the Treaty lands without the consent of the Indian people.

General George Armstrong Custer, in direct violation of the Treaty, led an expedition into the Black Hills, publicizing the existence of gold in that area. Prospectors swarmed into the Black Hills, and the U.S. government, ignoring its obligation under the Treaty, did little to stop the gold seekers from illegally settling on Indian lands. On November 9, 1875, President Ulysses S. Grant ordered the Army to stop trying to prevent miners from entering the Black Hills. The U.S. government then offered the Sioux $6 million for the gold-rich Black Hills, which was turned down. Violence between the Sioux and the United States ensued, culminating in the defeat of General Custer at the Battle of the Little Big Horn on June 25, 1876. This was followed, however, by more military pressure on the Sioux, resulting in loss of horses, weapons and for many a return to the reservation. In August of 1876, the U.S. Congress cut off rations for the Sioux people in an attempt to force them to cede the Black Hills to the U.S. and to relinquish their right to hunt outside the reservation. President Grant appointed a commission to negotiate a land cession. The Sioux would not agree to such an arrangement, however, and in the end the signatures of only 10% of the adult Sioux males - not the three-quarters required by the Ft. Laramie Treaty - were obtained. Even this 10% figure is not accurate, as the names of children and deceased people appeared on the document.

The federal government, however, was undaunted by its failure to obtain, through the starve-or-sell effort, consent of the Sioux people to cede their lands and, on February 28, 1877, Congress approved what is euphemistically termed a "treaty of cession." It is the land taking pursuant to the 1877 Act that the U.S. Supreme Court in 1980 found to be unconstitutional, citing a lower court's conclusion that "a more ripe and rank case of dishonorable dealing will never, in all probability be found in our history."

The Supreme Court's ruling regarded the only question before it, whether interest should be paid on the $17 million awarded by the

Indian Claims Commission for the taking of land, not on whether land should be returned to the Tribes. The only forum available to Sioux people for obtaining land is the Congress. Congress has not limited itself to monetary awards in the resolution of Indian claims issues. Combinations of land returns and financial considerations have taken place recently and, in all likelihood, will continue to take place. For anyone who may be concerned that S. 1453 represents a land resolution precedent they do not want, the bill will not change the fact that each land claim will continue to be considered on its own merit. We hope that this Committee and Congress will bear this in mind when considering S. 1453.

Instances of Indian land returns include: 1) 1980 Maine Indian Land Claims Settlement Act, involving 300,000 acres of land and a $27 million trust fund to the Passamaquoddy Tribe and Penobscot Nation; 2) Restoration in 1984 of 25,000 acres of land fraudently taken from the Cochiti Pueblo of New Mexico. Like the federal lands in the Black Hills, this acreage was part of the U.S. Forest Service's holdings. This legislation, like S. 1453, preserved the existing rights of present users. The Interior Assistant Secretary, in testimony on the Cochiti Pueblo bill, said it would be a "grave injustice" not to return the lands to the Pueblo. It likewise would be a grave injustice to not restore land in the Black Hills to the Sioux Nation; 3) Restoration of 132,402 acres of land to the Hualapai Indians of Arizona in 1984 by administrative action. This was land withdrawn by the Bureau of Land Management for a proposed construction of a dam, power plant and reservoir; 4) In 1970, the Pueblo of Taos in New Mexico saw the culmination of a decades-long struggle to regain their sacred Blue Lake, when P.L. 91-550 was approved; 5) During the mid-1970s, the Yakima Nation achieved the return of their sacred area, known as Mt. Adams, by Executive Order; 6) Also during the 1970s, the Alaska Native Land Settlement Act and follow-up legislation were approved, involving millions of acres of land and other resources and religious and subsistence areas; 7) The Cocopah Tribe in Arizona received, through legislation, 4800 acres of land, most of which had been under Bureau of Land Management ownership; 8) The Mashantucket Pequot Tribe in Connecticut received $900,000 to purchase lands as the result of 1,000 acres of land illegally taken in the 1700s. The Tribe was able to purchase 650 acres; 9) The Narragansett Tribe in Rhode Island received $3.3 million from Congress in 1980 in order to purchase state-owned lands; 10) the Mohigans in Connecticut negotiated a settlement of 2500 acres after the Supreme Court ruled that they were protected by the Nonintercourse Act.

We urge the Members of the South Dakota Congressional Delegation and the non-Indian people of South Dakota to approach the issue of return to the Lakota and Dakota people federal land in the Black Hills with an open mind and with a desire to learn from the Lakota and Dakota history, culture and people. Support for the Sioux Nation Black Hills Act or for any other effort to return land to the Sioux people should be viewed as an active reconciliation or healing process within South Dakota. The legislation has been carefully crafted to bring justice to Indian people and also to accommodate non-Indian interests. The legislation involves only federal land, no people would be displaced and no existing mineral or timber leases, rights of way or grazing rights, permits or contracts would be altered. Mt. Rushmore would not be affected by the bill. S. 1453 would restore the federal land in the Black Hills, or approximately 1.3 million of the 7.3 million acres stolen from the Sioux people in 1887. Indian people are engaged in communication with non-Indian South Dakotans regarding the history of their stolen land and its central importance to their culture and religion. We fervently hope that the South Dakota Congressional delegation likewise will participate in this learning process and support the Sioux Nation Black Hills Act.

Thank you again for this opportunity to support the efforts of the Sioux people regarding their sacred land, the Black Hills. We urge the Senate Select Committee on Indian Affairs and the Congress to approve the Sioux Nation Black Hills Act.

ATNI
Affiliated Tribes of Northwest Indians

Delbert Frank, Sr., President
Warm Springs
Box "C"
Warm Springs, OR 97761
503/553-1161
Joe Jay Pinkham, 1st Vice Pres.
Yakima
Al [illegible], 2nd Vice Pres.
Salish/Kootenai
Del T. White, 3rd Vice Pres.
Nez Perce

[illegible] Mayhew, Secretary
Klamath
Pauline Rich, Treasurer
Siletz
Wm. Ron Allen, Asst. Sec.
Jamestown Clallam
Virginia Ryan, Exec. Director
Snohomish
6720 Soundview Dr. N.E.
Tacoma, WA 98422
206/939-5111

1985 ANNUAL CONVENTION
Swinomish Tribe, Washington

RESOLUTION #85-19

WHEREAS, the Affiliated Tribes of Northwest Indians are representatives of and advocates for national, regional, and Tribal concerns; and

WHEREAS, the Affiliated Tribes of Northwest Indians is a Regional Organization comprised of American Indians in the states of Oregon, Washington, Idaho, Montana, Nevada, and Alaska; and

WHEREAS, the health, safety, welfare, education, culture, economic and employment opportunity, and preservation of natural resources are primary goals and objectives of Affiliated Tribes of Northwest Indians; and

WHEREAS, the Black Hills are the sacred center of aboriginal territory of the Sioux Nation and as such hold deep religious significance for the Sioux Nation and are central and indispensible to the free exercise of the Sioux religion; and

WHEREAS, the Black Hills are within Sioux treaty territory, as affirmed by the Treaties of September 15, 1981, (11 Stat. 749) and April 29, 1868, (15 Stat. 635); and

WHEREAS, the Sioux Nation never has been accorded a forum within which to seek the return of lands; and

WHEREAS, the Sioux Nation has pressed its claim to the Black Hills vigorously and continuously for more than one hundred years; and

WHEREAS, it will further the interests of the United States to enter into a just and honorable Sioux Nation Black Hills lands settlement, recognizing and reaffirming its domestic and international commitments to Sioux Nation self-determination, economic security and religious freedom, and acknowledging the traditional and historical belief of the Sioux in the sacred character of the Earth and in the Black Hills in particular, as well as their rights to freely exercise such beliefs; now

THEREFORE BE IT RESOLVED, that the Affiliated Tribes of Northwest Indians hereby voices its support for the Sioux Nations Black Hills Act (S. 1453) and urges all members of the United States Senate to act favorably of this legislation as soon as possible; and

BE IT FURTHER RESOLVED, that the President and the Secretary of ATNI be authorized and instructed to sign this resolution for and on behalf of this organization, and to forward copies of this resolution to members of the United States Senate.

CERTIFICATION

The foregoing resolution adopted at the 1985 Annual Convention meeting of Affiliated Tribes of Northwest Indians, at the Swinomish Tribal Center, Washington on August 19-21, 1985, with a quorum present.

Allen V. Pinkham
Allen V. Pinkham, President

Kathryn Harrison
Kathryn Harrison, Recording Secretary

PREPARED STATEMENT OF CINDY DARCY

On behalf of:
Friends Committee on National Legislation, Washington, DC and

The Right Reverend William Wantland
Episcopal Diocese of Eau Claire, Eau Claire, WI

Robert Z. Alpern
Director, Washington Office, Unitarian Universalist Association of Congregations in North America

Rabbi Irwin M. Blank
Washington Representative, Synagogue Council of America, Washington, DC

Sister Barbara Lupo
Co-Director, Clergy and Laity Concerned, New York, NY

Robert W. Tiller
Director, Office of Governmental Relations, American Baptist Churches, USA, Washington, DC

Owanah Anderson
Staff Officer, Episcopal Church Center, New York, NY

Mary Jane Patterson
Director, Washington Office, Presbyterian Church, USA, Washington, DC

Eugene Crawford
Executive Director, National Indian Lutheran Board, Chicago, IL

Ted Zuern, S.J.
Associate Director, Bureau of Catholic Indian Missions, Washington, DC

Ed Nakawatase
National Representative, Native American Affairs, American Friends Service Committee, Philadelphia, PA

Joe Hacala, S.J.
Director, National Office, Jesuit Social Ministries, Washington, DC

The Reverend William Weiler
Director, Washington Office, Episcopal Church, Washington, DC

My name is Cindy Darcy. I serve as legislative advocate for Native American issues for the Friends Committee on National Legislation. We appreciate this opportunity to testify today as a non-Indian organization before the Senate Select Committee on Indian Affairs in strong support of S. 1453, the "Sioux Nation Black Hills Act."

While no one person or organization can represent the views of all members of the Religious Society of Friends (Quakers), there is a long-standing tradition of friendship with and concern for American Indian peoples among Friends. Among the issues on which the Friends Committee on National Legislation has advocated on behalf of Friends are support for Indian treaty rights, Indian self-determination and the fulfillment of the federal government's legal and moral "trust responsibility" toward tribes.

Also today, several other religious organizations have asked that I express to this Committee their support for this legislation to return certain lands in the Black Hills to the Sioux tribes: the Episcopal Bishop of the Diocese of Eau Claire, WI; the Washington Office of the Unitarian Universalist Association of Congregations in North America; the Synagogue Council of America; Clergy and Laity Concerned; the Office of Governmental Relations for American Baptist Churches, USA; the Episcopal Church (whose separate resolution of support is attached); the Washington Office of the Presbyterian Church, USA; the National Indian Lutheran Board; the Bureau of Catholic Indian Missions; the American Friends Service Committee; and the National Office of Jesuit Social Ministries.

S. 1453 would restore to the Sioux tribes some 1.3 million acres of federal lands in the region of the Black Hills in South Dakota. These hills, which are of particular religious, historic and cultural significance to the Sioux and other tribes, were illegally taken in 1877, in violation of the Treaty of Fort Laramie of 1868. This legislation has been the subject of much discussion among the eight Sioux tribes (Cheyenne River, Crow Creek, Lower Brule, Oglala, Rosebud, Standing Rock, Santee Sioux of Nebraska and the Sioux Tribe of the Fort Peck Reservation, Montana), and has been drafted and approved by them. It is our understanding that this legislation has strong tribal support. Sioux unity behind efforts to regain portions of the Black Hills does not, and need not, however, necessarily equal unanimity of tribal opinion.

We applaud the leadership and courage of Senator Bill Bradley, who introduced S. 1453 in the Senate, and Representative James Howard, who introduced a companion bill, H.R. 3651, in the House of Representatives, for their efforts to write a more honorable chapter to this government's relations with the Sioux Nation. As Senator Bradley said upon introduction of S. 1453 last July, we too believe that "this issue goes to the heart of who we are as a people and what we are as Americans" in its intents both to promote justice in our federal government's relations with these Indian tribes, and to celebrate something vital and precious to the Sioux people: their land, the Black Hills -- as they put it, the "heart of everything that is."

As others at this hearing here today will have described, the Black Hills of western South Dakota and eastern Wyoming were included as part of the Great Sioux Reservation established under the Treaty of Fort Laramie in 1868, following the Powder River War. Article II of the treaty guaranteed that a portion of land west of the Missouri River would be "set apart for the absolute and undisturbed use and occupation of the [Sioux] ... and the United States now solemnly agrees that no persons except those herein designated and authorized so to do ... shall ever be permitted to pass over, settle upon, or reside in the territory." The treaty also acknowledged Indian hunting grounds in what are now North Dakota, Wyoming, Colorado, Kansas and Nebraska. As the Indian Claims Commission was to state in 1974, the Treaty of Fort Laramie was not a treaty of cession. The Indians would never have signed the 1868 treaty if they thought they were ceding lands to the United States.

In 1874 Lieutenent Colonel George Custer led an expedition into the Black Hills, following rumors of large gold deposits. When prospectors and other non-Indian settlers swarmed into Sioux territory, the federal government did nothing to keep them off tribal lands — in violation of the terms of the treaty. In 1876 the Grant administration sought to buy the Black Hills from the Sioux for six million dollars. Indian protests of this attempt to buy their lands and of the incursion of non-Indians culminated in the Battle of Little Big Horn, where Custer was defeated. An angry Congress responded by adopting a "sell or starve" policy, stating in an appropriations measure that no further treaty-guaranteed rations would be given to the Sioux until the Black Hills were sold. Although the Fort Laramie Treaty required that no lands could be ceded without the approval of three-fourths of the Sioux men, this federal policy forced a handful of men to sign a cession agreement to 7.3 million acres, which Congress approved in 1877.

Since the 19th century, the Sioux tribes have protested these U.S. violations of the treaty they signed in good faith. In 1974 the Indian Claims Commission awarded the Sioux the value of their lands in 1877 ($17 million) plus 5% annual interest, (appraised today at more than $160 million). In 1980 the Supreme Court affirmed that the congressional agreement which led to the Black Hills' taking had been in violation of the treaty and was, therefore, unconstitutional and illegal. The high court held that the Sioux were entitled to compensation for the land, plus interest. Its ruling stated that "[a] more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history."

Though Congress in 1980 appropriated the money upheld by the Supreme Court for the Indians' loss of the use of their land, the Sioux have refused to take the money, stating firmly that "The Black Hills are not for sale." As a spokesperson for the Black Hills Steering Committee explained to the press upon the introduction of S. 1453 last July 17, "It is not a question of enough money, but it's a question of how you value the earth. The earth is our mother, and you don't sell your mother."

Among the provisions of S. 1453 that we support are that:

Certain lands which were a portion of the Great Sioux Reservation under the 1868 treaty and taken in 1877 shall become a "re-established area" for the Sioux Nation. This area, approximately 1.3 million acres of the original 7.3 million acre reservation, shall border Nebraska, Montana and North Dakota.

Federal lands (except Mount Rushmore National Memorial), water rights and mineral estates within the re-established area shall be conveyed to the Sioux Nation. Water rights not appropriated under South Dakota state law or reserved by the U.S. shall become the property of the Sioux Nation, which shall determine use and allocation of these waters.

Privately held lands within the re-established area shall not be disturbed, though they may be purchased or acquired by the Sioux Nation.

In order to consolidate the land holdings of the Sioux Nation within the re-established area, certain areas shall be exchanged for unappropriated public lands outside the re-established area.

Funds appropriated in 1980 plus interest shall be paid to the Sioux for loss of the use of their lands from 1877 until this bill is enacted.

Lands within the re-established area shall be known as the Sioux Park and shall remain open to all persons. Traditional religious or ceremonial sites, or lands within the Park designated as a wildlife or wilderness sanctuary "for living things which have a special sacred relationship to the Sioux," shall be excluded from public access in order to preserve their primary religious uses or to provide wildlife sanctuary. "All lands in the Sioux Park shall remain in the state of use or development to which these lands were committed" upon enactment of the bill.

U.S. Forest Service lands acquired under this Act that are not in the Sioux Park shall be designated the Black Hills Sioux Forest, to be used "in accordance with the traditional principle of 'respect for the earth.' "

Valid existing rights of use, access or possession, mineral leases and grazing and timber permits shall continue until they expire. Twenty-five percent of forestry receipts for payment in taxes will continue to be paid to county governments. And

The Sioux Nation shall exclusively regulate hunting and fishing on all lands and waters within the re-established area.

* * * *

The role of religious groups in Indian affairs admittedly has not always been an honorable one. Despite our blindness and mistakes, however, it has been a clear goal of many in our faith communities to seek peace and justice among all people. We add our support as religious groups to S. 1453 because it seeks to bring about justice, to right in part a wrong committed more than 100 years ago: the illegal taking of lands protected by treaty. Since 1877, the Sioux have worked through the courts to press for the return of the Black Hills -- for their land, not money.

We support S. 1453 because of these legal and moral arguments. In addition, as religious organizations with a religious basis for our involvement in justice issues, a perhaps less tangible, spiritual resonance draws our support for S. 1453. This spiritual connection comes from three concepts within the Judeo-Christian tradition: the notion of peoplehood; the recognition of all life as a gift of the Creator; and shalom or wholeness among all creation. We find these theological concepts embodied in the purposes and goals of the "Sioux Nation Black Hills Act."

The Judeo-Christian heritage celebrates an identity throughout the Old and New Testaments of being "the chosen," "the people of God." As it is written in the Book of Exodus, the Lord said, "I will take you for My people, and I will be your God." A statement of World Council of Churches speaks of a similar identity for Native peoples: "Most ... [indigenous peoples] reflect the conviction that land is given by God to human communities and not to individuals.... As the land is given by God, the community is connected to [God] through the land. God-People-Land is thus an unbreakable unity embracing the whole of creation." For the Sioux, whether or not every individual believes that the Black Hills are sacred, they would agree that this land is significant to the Sioux identity as a people. The statement "As long as you keep the Black Hills, you will be Lakota" makes this connection of identity clear.

Secondly, it is fundamental to Biblical thought that God is the Creator of all life, and that all created things were spoken into being for the purpose of fellowship with God and with each other. Similarly, traditional Sioux spirituality has celebrated all life as sacred, celebrating the Creator's gift and presence in all creation. As a specific area of land, the Black Hills are of particular spiritual importance to the Sioux as the sacred center of Sioux aboriginal territory from which, according to legend, the people emerged, in a way which has similarities to Jerusalem is held in high esteem by Christians, Jews and Moslems.

Finally, the "Sioux Nation Black Hills Act" comes out of a notion of unity and harmony among all creation -- righting a wrong between Indian and non-Indian, allowing lands long sacred to be used freely for ceremonies or other purposes as the tribes deem fit, preserving the land and its habitat in a natural state. This echoes the Judeo-Christian concept of shalom, where there is wholeness, interrelatedness, justice and harmony among all that God has made.

In conclusion, as religious organizations with both Native American and non-Indian congregations, we applaud the introduction of the "Sioux Nation Black Hills Act," S. 1453, and thank this Committee for holding these hearings today. Our strong support goes to this legislation that has been written, with much discussion, by the people whom it will affect; that encourages justice in the federal government's dealing with Indian tribes; and that enhances and celebrates the Sioux's identity as an Indian nation and as Indian people. Thank you for this opportunity to present our views.

Resolution of National Committee on Indian Work

Whereas, currently S. 1453 has been introduced into the United States Senate, sponsored by Senator Bradley of New Jersey; and

Whereas, subsequently, H.R. [3651] has been introduced into the House of Repesentatives, sponsored by Representative Howard; and

Whereas, both bills are of the same language and are entitled "Sioux Nation Black Hills Act;" and

Whereas, both bill establish boundaries of federal lands in the Black Hills region in South Dakota, and whereas, if passed, would return these lands to the Sioux Nation; and

Whereas, there exist 10,000 confirmed Episcopalians that are of Sioux ancestry in the Niobrara Deanery; and

Whereas, the Niobrara Council of the South Dakota Episcopal Diocese has passed a resolution supporting both bills in their entirety;

Therefore, be it resolved that the National Committee on Indian Work of the Episcopal Church hereby supports both bills ion their entirety; and

Be it further resolved that NCIW hereby authorize its chairman and administrative staff to take such actions and measures as is necessary to promote the advocacy of this resolution.

Unanimously adopted by NCIW on March 14, 1985,
at their spring meeting, St. Paul, MN

Signed: Dr. Carol Hampton, Caddo, Oklahoma City, OK
Mrs. Blanche Zembower, Dakota, Littleton, CO
Tom Jackson, Navajo, Window Rock, AZ
The Reverend Michael Griffith, Oneida, Los Angeles, CA
Dr. Helen Peterson, Oglala Sioux, Portland, OR
The Reverend Joe Bad Moccasin, Dakota, Santee, NE
Mark Raymond, Lakota, Grand Forks, ND
The Right Reverend William C. Wantland, Seminole,Eau Claire, WI

PREPARED STATEMENT OF HON. JAMES J. HOWARD, A MEMBER OF CONGRESS FROM NEW JERSEY

Mr. Chairman, allow me to thank you for providing me this opportunity to present my views on the Sioux Nation Black Hills Act before this forum. I appreciate your taking the time out of your schedule to hear from Senator Bradley, myself, and members of the Sioux Nation with respect to this legislation.

Senator Bradley has laid forth the history of this problem. I would like to expand further on the less tangible, yet very significant reasons for this bill.

As we already know, and as the United States Supreme Court made clear in 1980, a great injustice has been perpetrated against a select group of Indians in South Dakota, and that injustice has carried on for over a century. I have sponsored legislation to address this injustice because I feel that the time has come for Americans to face up to the complexities imposed by a pluralistic, free, and equal society. We have been celebrating the bicentennial of our country, of the Declaration of Independence, of the Constitititution. We have been using and repeating the words "liberty", "freedom", "justice for all". Now we need to reconcile these words with the actual, day-to-day difficulties that exist in today's society. Individuals, and the institutions which represent their ideals and values, must question the actions which pattern the progress of our lives. If we look at the actions pertaining to this specific situation, I think we will see that we have not appropriately practiced what we preach in allowing groups and individuals to live freely according to their own beliefs. I also believe that this is a case whereby the U.S. government has held itself above the law to satisfy immediate goals without consideration for the rights of others involved. We now have the chance to demonstrate to the world that we do practice what we preach, we do allow freedom of religion, of culture, and that we do appreciate the value of pluralism.

In 1980, the Supreme Court upheld the contention that the United States government illegally seized the Black Hills from the Sioux Indian Nation. The story of how the government went about this seizure is a sad testimony to our insensitivity to the original possessors of this land. In the words of the Supreme Court, "(a) more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history." How then, can we right the wrongs that the U.S. government committed more than a century ago? How can we repair the damage that we have caused? This is the question that this legislation addresses.

By way of relief, the Court directed that the Sioux be repaid for the land taken from them. In 1974, the Indian Claims Commission awarded the Sioux $17 million, the value of the land in 1877. In addition, the Sioux were awarded interest on this money. The Supreme Court upheld this award in 1980, and today it is worth approximately $160 million. The money sits in an account at the Treasury, but the Sioux refuse to accept it. "It is not a question of enough money," says Gerald Clifford, director of the Black Hills Steering Committee, "but it is a question of how you value the earth. The earth is our mother, and you would not sell your mother." We may feel that $160 million is adequate compensation for the land, and in monetary terms perhaps it is, but there are two factors we must keep in mind before we reach such a conclusion.

First, the Sioux do not share the belief that a monetary value can be assigned to the Black Hills. Second, even if the Sioux did feel that the Black Hills are worth a particular amount of money, they have never offered to sell the land for any amount. The Sioux are resolved to never accept money in exchange for the Black Hills. They are not for sale.

The solution that the courts have offered will not work. We cannot give the Sioux money and keep the Black Hills as if we had purchased them, for we did not purchase them, we seized them illegally. They are not ours to keep. The Congress of the United States has a responsibility to right this wrong. Not only was the Congress a partner in the original injustice, but the Congress is also a democratic body entrusted with the responsibility to uphold and advance the rights of citizens. The Congress must ensure that Native Americans have an equal opportunity to live according to their religion without having to forfeit a major part of this religion, the land involved here, to the government.

The Black Hills are lands of the tribes of the Sioux Nation. This has been affirmed by the Treaties of September 15, 1851 and April 29, 1868. More significantly, it has been affirmed by the intimate connection of the Sioux to the land, a connection which goes back thousands of years. "The Black Hills is the heart of our home and the home of our heart," says David Blue Thunder, a deceased Sioux elder. We may not fully understand the intimate religious and cultural connection of the Sioux to the Black Hills, but this does not mean that we cannot respect it.

The United States of America will be better off in the long run if we give this land back to its rightful owners. And in the future, no matter how difficult or how inconvenient, we must respect the different religions and cultures that make up our pluralistic democracy. I do not want to see our Native American cultures disappear. They have much to teach us, a great heritage to pass on. Stealing their land, starving them into submission -- this is not what America stands for. We stand for Life, Liberty, and the pursuit of Happiness, for all of our citizens. Let us reaffirm these ideals by returning this small portion of land to the Sioux Nation.

PREPARED STATEMENT OF REV. CARL E. KLINE

This legislation is of special significance to me, having just completed a three week intercultural education project on the Rosebud Reservation in South Dakota with the theme of Nonviolent Social Change. The program was sponsored by the Lisle Fellowship, an intercultural education organization fifty years old with thousands of members from all over the world. Twenty people from the US and India learned about Lakota culture and reservation life. We lived in tipis, participated in sacred ceremonies and concluded our program with a visit to the Black Hills. The program opened our eyes in new ways to the importance of this legislation and the reasons why it should be passed.

First, Indian people deserve access to their sacred lands for religious purposes at least comparable to the access of Christians.

The Black Hills are the sacred land of the Sioux people. It might be compared to the way Jewish people feel about Israel, or to the feeling Christians have about their churches. As a minister I've tried to help two small struggling churches combine, with great difficulty. People have an attachment to their "holy places" that defies explanation. So, too, Indian people. They have a strong attachment to their sacred places.

As a young man growing up in South Dakota in the United Church of Christ, I had access each summer to Camp Placerville. Located in the Black Hills it has been the sacred space for hosts of church people in the state. Many were the times I would wander off by myself during morning devotions or after evening vespers to be alone in Gods wilderness for reflection and meditation or experiencing the presence of God in the natural world. Never once was I interrupted by a tourist or even another from the camp. There was ample space for personal privacy.

This simple privilege has not been available to Indian people wishing to practice their traditional religion. The residents of North America who first experienced the holiness of this special place have been denied an opportunity to use their sacred space in privacy. All of the major Christian churches have camps in the Black Hills. Indian people have none. Their traditions and religious practices have not been respected when vision quests can be interrupted by a gawking tourist or fasting disturbed by trail rides or helicopters. Clearly the Sioux people deserve some space designated for their use only, for religious ceremonies and rituals.

One intention of the intercultural program at Rosebud was to stimulate interest in Lakota culture and spirituality among Lakota young people. This happened. Some young people were excited that people from all over the US and especially from India were interested in their culture. They became more interested themselves. We observed the way in which a return to traditional spirituality, to cultural roots, allowed some to find their own personal roots and chart new directions.

Cut off from sacred spaces and spiritual roots, people can only wander in the wilderness of addictive behaviors; alcoholism, unemployment, violence, despair.

Second, the US theft (according to the US Supreme Court) of treaty land constitutes the foremost and fundamental moral issue facing the people of South Dakota. Because of the actions of the federal government, many South Dakotans are living on someone elses land.

There is an awareness among South Dakota people, just below the surface, that they are in the state and living well, at the expense of those who went before, to poverty or death. We have become more truthful about US history and "cowboys and Indians."

The unease many white South Dakotans feel about the breaking faith with Indian people and their claims, often gets acted out in racial prejudice and discrimination, which further fuels Indian distrust and bitterness, generating hostility to the point of random irrational violence. The racial problems of South Dakota are grounded in white guilt, legitimate guilt, that the federal government caused and must correct. It is the single most important and difficult moral issue that we face.

A corallary of this moral concern is the wisdom lost to a state dependent on agri-culture and the vacation of those seeking environmental harmony. Dialoge with Sioux philosophy and religion holds promise for a truly harmonious ecosystem. The whole state loses when racial antipathy prevails.

Finally, this legislation should be enacted because it is a model of rationality and reconciliation. The present generation is not held accountable for the faults of previous generations, yet some justice is done for Indian people. Every effort is made to protect those with legitimate claim to land or resources in the hills, yet Indian people receive some control over their sacred space. The process for achieving these ends has centered in dialogue, negotiation, listening, compromise, reconciliation, through the initiative of Indian people. It offers an opportunity white Americans and South Dakotans can not afford to ignore.

It is my fervant hope and prayer that the Congress of the United States will see fit to right a historic wrong that has caused a formative moral problem for South Dakotans and prevented Indian people from their sacred places by passing S. 1453. It is consistent with the large hearts and clear heads of the people of South Dakota.

Rev. Carl E. Kline
802 11th. Ave.
Brookings, SD
57006

SOUTH DAKOTA PEACE AND JUSTICE CENTER

I want to see
a mighty flood of justice—
a torrent of doing good
Amos 5:24

P.O. Box 405
Watertown, SD 57201
(605)882-2822

July, 1986

PREPARED STATEMENT OF TIM LANGLEY, EXECUTIVE DIRECTOR, SOUTH DAKOTA PEACE AND JUSTICE CENTER

The South Dakota Peace and Justice Center is a nonprofit tax-exempt organization incorporated in the state of South Dakota. We function as an interfaith education and citizens' action network of over 500 members which enjoys the financial support of nearly all the major church denominations active in the state. Some of our members are Native American; the vast majority, however, are non-Indian.

We have been concerned with the Black Hills as a question of justice in our state for a number of years now. We once sponsored a series of educational forums around the state whose purpose was to acquaint non-Indians with the provisions of the Ft. Laramie Treaty of 1868 on which the Sioux Nation bases its claims to the Black Hills. The issue had come to the fore at that time because of a Supreme Court ruling which admitted the illegality of the US seizure of the Black Hills in the 1870's, but prescribed a narrowly monetary form of restitution which most Sioux tribal councils found unacceptable. Attention to the controversy was subsequently heightened when a group of Sioux people laid claim to 800 acres of Forest Service land in the Black Hills for the purpose of establishing a traditional community there.

For members of the Peace and Justice Center, the dilemma has always been this: we have recognized the justice of the Sioux Nation's claim to an area uniquely important in their religion and culture which was, frankly, stolen from them in violation of solemn treaty in order to get at some gold deposits. On that account, we have very much wanted to stand with the Sioux Nation. Yet we also wanted to be sensitive to the non-Indian South Dakotans who have built homes, towns, businesses, and lives in the Black Hills in the intervening century.

So: How could we call for a return of the Black Hills to the Sioux Nation without being merely rhetorical? But how could we be silent on the issue without acquiescing in an injustice of breathtaking scope and cynicism?

The Sioux Nation Black Hills Act resolves that dilemma. We endorse it without reservation.

First of all, the Bill represents reality, not rhetoric. It really does offer a just adjudication of a long-standing dispute which is acceptable to the injured party. This initiative comes from the Sioux people themselves. It makes practical and concrete, in meticulous detail, the rather more vague goal of "returning the Black Hills."

But second, the Bill offers no fresh injury to the non-Indian people now living in the Black Hills; in fact, the provisions of the Bill are positively to their benefit. Not only will deeds to private property be respected, but they will become unclouded to a degree they never have been once the settlement takes place.

The public's access to the Black Hills will be provided for. Sound land management will be provided for. The accompanying cash settlement to the Sioux Nation will be deposited in perpetuity in local banks, to the benefit of our communities.

This Bill has been through the crucible of building consensus around it in the Native American community, and its fine crafting owes much to that process. What has emerged from that gaunlet of research, discussion, and modification is a solid and far-sighted piece of legislation eminently deserving of approval by this Congress. In righting a historic wrong which will belong to the past forever, it provides for the common good of future generations of South Dakotans, both Indian and non-Indian.

Members of the South Dakota Peace and Justice Center urge you to act on it favorably. We appreciate the Opportunity to testify.

PREPARED STATEMENT OF THE NATIVE AMERICAN TASK FORCE

Mr. Chairman and Members of the Committee,

The Native American Task Force a working group of the Rural Coalition wishes to express our whole-hearted support for the enactment of S. 1453, the Sioux Nation Black Hills Act. Over one hundred years have passed since the U.S. government illegaly deprived the Sioux Nation of their lands and religious sites. This legislation gives Congress an opportunity to begin to redress this injustice by returning federally-held lands in the Black Hills and compensating the Sioux people for the loss of the use of the land during the past century.

The Rural Coalition is national alliance of organizations dedicated to the development and implementation of public policies that will benefit rural Americans. The Coalition has over 120 member organizations working together on issues which include agriculture and food policy, rural employment and jobs, community development, natural resources and the plight of Native Americans. The Native American Task Force is a working group of indigenous people focusing on vital issues important to Native Americans. Support of the Sioux Nation Black Hills Act is a priority to the Native American Task Force.

The Black Hills Steering Committee should be commended for its dedication and perseverance in crafting this legislation--the culmination of a hundred year endeavor by the Great Sioux

Nation. The democratic participation process established by the Steering Committee has ensured that all affected tribes are united in support of S. 1453 and are prepared to implement the necessary tribal governmental structures upon conveyance of the land. The is up to the U.S. Congress. Congress alone can convey these lands and end a dark period of blatant, colonizer -styled disregard for the human, legal, and religious rights of indigenous people. This legislation has been crafted to allow the Congress to begin to resolve this issue with honor.

Senator Bill Bradley and Congressman James Howard should also be commended for their courage in acknowledging the need to right past wrongs and the need to begin to ameliorate the negative economic and cultural effects that this landgrab has had upon the Sioux way of life.

National and international forums have documented the underhanded, illegal manner of the taking of the Black Hills in violation of the 1868 Fort Laramie Treaty-- a multi-lateral agreement between the U.S. government and the Sioux Nations providing that no cession of lands could occur without the approval and written consent of three-fourths of the adult Sioux males. The Supreme Court has found that the 1877 taking of Sioux land was unconstitutional and a violation of a multi-lateral treaty signed by sovereign nations. It also found that actions by Congress in August 1876 to cut off food and supply rations were a blatant, reprehensible act of blackmail to force the Sioux to sign away the lands. Even then only a handful of Sioux signed. The blackmail effort having failed, the federal government ignored the Fort Laramie Treaty; Congress unilaterally approved a "treaty of cession" on February 28, 1877. This "sell or starve" scheme and numerous other shameful actions by the Congress and the military prompted the Supreme Court to note that "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history". The Supreme Court decision while, acknowledging that interest should be paid on a previous $17 million award, was unable to resolve the main issue of the return of Sioux lands. The Court laid this critical issue squarely on the doorstep of Congress with a clear historical and judicial finding to guide Congressional action.

The Black Hills have a special religious significance for the Sioux people. The sacred nature of the Black Hills is documented in Lakota legends; it is a very special sacred site for all Sioux and is "the Heart of Everything That Is". The taking of the land has resulted in the negation of the Sioux right to freely exercise their religion and would be considered as an abridgement of the First Amendment if executed against any other group of people. The right of the Sioux to practice traditional religion and be able to protect sacred sites is an inalienable right. Had this happened to any other group of people or conventional religion this would have been a major civil rights issue.

The Sioux Nation Black Hills Act calls for Congress to convey only federally held lands to the Great Sioux Nation. In crafting this legislation, the Black Hills Steering Committee took great care and effort to ensure that S.1453 would have no adverse impact on the non-Indian community. No people would be displaced and no existing leases, easements, grazing rights, permits or contracts would be altered. Mount Rushmore would not be affected by the bill. Under S.1453, approximately 1.3 million acres currently held by the federal government would be reconveyed to the Sioux people. This is a minimal amount of land given that over 7 million acres were illegaly taken in 1877. Reconveyance of these lands is an essential first step in ameliorating the negative social and economic effects produced by the landgrab.

The Great Sioux Nations have proven great competence and proficiency in administering their lands for centuries. The indigenous view of the world in terms of resource protection and responsibility toward other living things has established the Sioux as more than capable caretakers for the proposed Sioux Park and the wilderness areas. Under S.1453, national parks, wilderness areas, natural areas, and wildlife preserves would remain open to all. In order to preserve their primary religious uses and to protect wildlife, certain areas would be excluded from public access including traditional religious and ceremonial sites or lands within the Park. Other than these special religious sites, all lands on Sioux Park would remain in the state of use to which these lands were committed before enactment of this bill.

The most important contribution made by the enactment of S.1453 will be the reaffirmation by Congress of the right of indigenous people to self-determination. The right of the Great Sioux Nation to hold dominion and exercise sovereignty over the Black Hills is acknowledged in numerous multi-lateral treaties, by national and international courts, and by inherent, inalienable proprietary rights. A positive affirmation of self-determination by Congress would be the conveyance of the lands on a fee simple, tax-exempt basis. This will prevent land alienation and the paternalistic control of the Bureau of Indian Affairs which seems to be more effective in leasing Indian lands to non-Indian ranchers than promoting tribal self-sufficiency.

Compensation for the loss of the use of the lands from 1877 to the day of enactment of the bill as prescribed by S.1453 is minimally fair and equitable. While the extraction of more than $18 billion dollars worth of gold since the time of the landgrab and, more importantly, the loss of the use of the land for personal, tribal and religious uses can never be compensated adequately, the 1980 financial judgement is a positive step toward mitigating past negative economic impacts and promoting a more promising economic future.

The curent economic outlook for the Sioux tribes is gloomy. The October 4, 1985 First Friday Report entitled "American Indian Unemployment: Confronting a Distressing Reality issued by the Full Employment Council, the Lutheran Council USA Office of Governmental Affairs and the Rural Coalition documents a critical need for creating employment opportunities within the Sioux Nation.

> "The 1980 census recorded 45,101 American Indians in the state of South Dakota most of whom live on reservations and their border towns." The report states that, "on average, 64 percent of the Indian labor force is out of work, compared with an overall state jobless rate of 5.9 percent. One result of this disparity is that the Sioux have one of the highest poverty rates among all Indians--43.5 percent contrasted with 30.4 percent for all Indians and 14.4 percent for the nation.
>
> "Pine Ridge, the largest reservation in South Dakota and the second largest in the nation typifies the employment and economic development barriers South Dakota Indians face. The BIA not the Oglala Sioux, controls all grazing lands, leasing it to white ranchers in the area and effectively leaving those in the Indian community with no collateral for business development loans. There is no economy to speak of on the reservation and most of the 18,191 residents depend on the ever-shrinking federal poverty programs.

"Jobless rates for the nine federally recognized tribes in January 1985 were:

- Pine Ridge (population 18,191) -- 87%
- Rosebud (population 11,685) -- 86%
- Standing Rock (population 8,443) -- 79%
- Cheyenne River (population 5,150) -- 55%
- Sisseton (population 4,043) -- 80%
- Crow Creek (population 2,355) -- 55%
- Yankton (population 2,929) -- 80%
- Lower Brule (population 1,022) -- 50% "

Congress could go a long way toward altering this distressing reality by reconveying the Black Hills to the Great Sioux Nation and by allocating the judgment monies already approved. It should be noted that the Sioux have and will continue to refuse acceptance of the judgement award until the lands are returned. Contingent upon such conveyance the Black Hills Steering Committee has had the foresight to establish a Business and Investment Advisory Committee that has begun to plan an economic development strategy that will benefit the Sioux tribes as well as the state of South Dakota. The business and investment initiatives created by the Sioux Nation would generate badly needed employment opportunities for tribal members.

We urge the Senate to approve S. 1453 and return the Black Hills to the Sioux Nation. The reconveyance of the lands would be the beginning of a reconciliation process with indigenous people of this country. Recognizing past crimes and shame is not enough; the Black Hills, whether in title or not, will always belong to the Sioux people. Congress has an opportunity now to end an infamous episode and begin a new, constructive relationship and the Sioux Nations have an opportunity to begin to once again determine their own destiny. Approval of S. 1453 is a first step in this new direction.

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June 1986

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SD Nonpartisan League
Box 111
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July 25, 1986
1986 J C 07

Senate Select Committee on Indian Affairs
Hart Senate Office Building
Washington, DC 20510

Dear Sen. Andrews and Committee,

The South Dakota Nonpartisan League is a bipartisan network of both Republican and Democratic activists in the state of South Dakota who share concerns for the survival of family farmers, the preservation of South Dakota's beautiful natural environment, the viability of our rural school districts, and solid long-range industrial planning for our state.

At our convention in Pierre, SD on Nov. 23, 1985, we formally adopted the enclosed issues platform - after months of discussion and a thorough process of consideration and debate on the day of the convention. Among other items, the Nonpartisan League that day endorsed the Bradley Sioux Nation Black Hills Act. It is item 5-b on the third page of the platform.

We would be most grateful if you would enter this [illegible] the record of your deliberations on the Sioux Nation Black H[illegible]ct.

Sincerely,
Tim Langley
Tim Langley
secretary, SD Nonpartisan League

Steering Committee
Larry Johnke, Florence
Carl Kline, Brookings
Sharon Gray, Vermillion
Faye Bartlett, Murdo
Ken Meyer, Pierre
Bob Mines, Hot Springs
Charlotte Black Elk, Manderson

A Program for Governing the State of South Dakota:

The 1986 Platform of
The SD Nonpartisan League

adopted in open convention
November 23, 1985
Pierre, SD

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1. TO ENSURE THE SURVIVAL OF FAMILY FARMS AND RANCHES AND THE SMALL COMMUNITIES AND BUSINESSES DEPENDENT ON A FAMILY AGRICULTURE ECONOMY, the SD Nonpartisan League
   a. supports passage of a federal statute which guarantees farmers the recovery of their operating costs plus a reasonable rate of return on their investment;
   b. supports the reduction of the tax burden on property through the passage of a fair personal and corporate income tax;
   c. supports the repeal of the amendment to the Family Farm Act passed by the 1985 Legislature which permits some ownership of SD farmland by non-family corporations;
   d. supports the elimination of all programs which benefit land speculators at the expense of family farmers;
   e. supports the return of state laws against usury, with the maximum interest rate tied to the rate of inflation;
   f. supports a temporary moratorium on farm, ranch, and small business foreclosures;
   g. supports passage of a new Homestead Act that would allow farmers to keep their homesteads plus 40 acres, to rent land lost to credit institutions at an equitable rent, and to have the opportunity to repurchase their farms;
   h. supports the development of agricultural research into organic and other alternate methods of farming.

2. TO RESPECT THE EARTH SO AS TO ENSURE THE RE-ESTABLISHMENT AND SURVIVAL OF A CLEAN, HEALTHFUL, LIFE-SUSTAINING NATURAL ENVIRONMENT, the SD Nonpartisan League
   a. opposes any nuclear waste compact which permits the location of a commercial, multi-state, shallow trench nuclear waste dump in South Dakota;
   b. opposes the exploration, mining, or processing of uranium or uranium products on agricultural lands and on lands with tourism, aesthetic, cultural, or unique ecological value;
   c. supports the re-direction of government energy research dollars toward renewable technologies, including wind, solar, geothermal, alcohol fuels, and conservation;
   d. supports the conservation of SD's water, soil, and energy resources, including the protection of its groundwater by the state;
   e. supports the implementation and enforcement of a state air toxics program, for which federal money earmarked for SD is already available;

f. supports the enforcement of existing regulations governing aerial crop spraying, as well as legislation mandating the advance notification of adjacent landowners by aerial sprayers;
g. supports the preservation of wildlife habitat - the woodlands and other natural environments - along the James River and other rivers of the state;
h. supports opportunities for all S. Dakotans to enjoy outdoor recreational resources regardless of income.

3. TO ENSURE THE SURVIVAL OF QUALITY PUBLIC EDUCATION AND THE SURVIVAL OF RURAL SCHOOL SYSTEMS, the SD Nonpartisan League
   a. supports the repeal of the "family option plan" passed by the 1985 Legislature;
   b. supports making the Board of Regents more accountable to the people of South Dakota;
   c. supports the maintainence of a strong arts & sciences curriculum at all levels of education in SD.

4. TO ENSURE THE SURVIVAL OF SD FAMILIES AT RISK, the SD Nonpartisan League
   a. supports the present system of safe houses for abused women and children partially subsidized by county marriage license fees;
   b. supports an increase in the Consolidated Standard and in the Shelter Allowance for families receiving Aid to Dependent Children;
   c. supports partially subsidized day care for all children and adults who require it;
   d. supports the availability of legal protection to all victims of domestic violence and rape, including marital rape.

5. TO ENSURE THE SURVIVAL OF LAKOTA/DAKOTA CULTURE AND SOVEREIGNTY, the SD Nonpartisan League
   a. supports the honoring of all legal obligations for the education, health care, nutrition, and legal protection of the Lakota/Dakota Nation undertaken by the United States government in treaty;
   ✱ b. supports and endorses the Sioux Nation Black Hills Act.

6. TO ENSURE THE PRESENCE OF SOCIALLY BENEFICIAL INDUSTRIES IN SD, the SD Nonpartisan League
   a. supports the active recruitment of new industry to SD which will pay a decent wage, manufacture a beneficial product, protect the work and public environment, and remain committed to the economy of the local community - especially industry benefitting family farmers;
   b. supports the development of an equitable plan for a state corporate profits tax;
   c. opposes the state "right to work" law, since it interferes with the legitimate ability of employees to bargain collectively with their employers.

TO ENSURE A MORE PEACEFUL WORLD BY DECREASING THE MILITARIZATION OF OUR AMERICAN WAY OF LIFE, the SD Nonpartisan League
a. supports a comprehensive, bilateral freeze on the testing, production, and deployment of nuclear weapons by the US and Soviet governments, beginning with a verifiable ban on nuclear weapons testing;
b. supports a comprehensive ban on the militarization of space;
c. opposes the military intervention by the federal government in the affairs of Central American nations, or in the affairs of any other sovereign nation;
d. supports indigenous Central American peace efforts such as the Contadora process;
e. supports careful, substantial decreases in the rapidly expanding Pentagon budget in order to lessen the risk of war, meet human needs, ease the federal deficit, and make possible a more efficient and realistic defense of the country.

TO ENSURE THE REVIVAL OF GENUINE PARTICIPATORY DEMOCRACY IN SD, FREE FROM CORPORATE INTERFERENCE, BUREAUCRATIC SECRECY, AND PERSONAL FEAR, the SD Nonpartisan League
a. supports the strengthening and enforcement of laws governing open public meetings and freedom of information for agencies of state government;
b. supports legislation to permit voter registration at polling places on election day.

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The SD Nonpartisan League
Box 405
Watertown, SD 57201

PREPARED STATEMENT OF SINTE GLESKA COLLEGE

Sinte Gleska College is honored to submit this testimony on behalf of resolution of the Black Hills Claim of the Sioux and other American Indian tribes.

This testimony is submitted primarily as evidence of the quality of education available to tribal members who will be called upon to serve as managers and policy makers for the Black Hills and as evidence of the quality and kind of research available pertaining to the Sioux people and their historical and spiritual background.

INSTITUTIONAL BACKGROUND

Sinte Gleska College is a tribally chartered post-secondary institution serving the Rosebud Sioux Reservation. The Reservation located in southcentral South Dakota encompasses four counties covering over 5,000 square miles. There are an estimated 12,000 tribal members residing in twenty communities within those boundaries.

Sinte Gleska College was created by tribal charter in January, 1971, for the purposes of designing and implementing unique educational and other opportunities for area residents. The College serves academic needs through associate programs in business (management, public administration, secretarial and accounting), general studies, Lakota Studies (history and culture or language), fine arts and through baccaulaurate degrees in elementary education and human services. In 1983, Sinte Gleska College was accredited at the two and four year degree granting levels by the North Central Association thus becoming the first tribal college to achieve such status. Only Oglala Lakota College located nearby on the Pine Ridge Reservation has similar status.

The College currently is planning a four year degree program in administration with a tribal or public administration emphasis. The program is expected to be implemented within a year. Plans for graduate courses in elementary education areas are also underway.

Sinte Gleska College has implemented its first vocational education degree through a grant from the Department of Education. This degree program permits participants to receive an Associate of Applied Science in either Building Trades or Forest Managment. For the purposes of this testimony, the Forest Management emphasis is described further. In recognition of the need for trained individuals capable of making policy decisions related to the management of tribal forest lands, the College developed a curriculum that provides the student with hands-on experience in the field as well as providing sufficient background to enable the student to serve as a manager of forest lands. Students take a courses in business and public management, forest policy, forest law and forest history as well as on-the-job courses to train them in forestry techniques. A minimum of ten students are being trained by the forestry program in the first three year cycle. These students will be well qualified to manage the Black Hills in a culturally and environmentally appropriate manner.

Sinte Gleska College responds to the pressing social and economic needs of the Reservation through the creation of Institutes to study, plan and implement a variety of programs responding to particular issues and concerns. An Institute on Economic Development, on Alcohol and Substance Abuse and on the Study of the

Federal/Indian Relationship among the Rosebud Sioux are all currently operational. Through these Institutes the College seeks ways to uniquely respond to conditions on the Rosebud.

Among the programs and projects currently in existence at the College are an extensive community education program, a GED program, a Title VII Bilingual Education project for curriculum development and teacher training, a Computer Science for Teachers of Indian Children program, a project under the Women's Education Equity Act to study Lakota women's roles and provide education for and about Lakota women, and a Special Services project which provides remedial services for college bound adults.

The College recently received a grant from the Department of Education and the Bush Foundation to double the size of its library. A similar grant for the upcoming fiscal year will significantly enhance the library's Indian holdings and will increase public use of the library.

Sinte Gleska College is also completing an extensive demographic and literacy survey of the Reservation. This literacy assessment analyzes demographic and psychographic characteristics of the reservation's adult population and provides both academic and functional literacy data for college and reservation use. The data is being used to enhance and strengthen the College and the Tribe's planning process.

The College also operates a Lakota Archives and Historical Center. The Archives is a repository for tribal, college and individual records.

Sinte Gleska College has given 119 associate degrees and 31 baccaulaureate degrees to date. Another 25 to 30 students will be graduating August, 1986. There are 29 full-time faculty members with 9 holding doctorates or having completed all but their dissertations, 12 with master's and 8 with baccaulaureates. The College's Lakota Studies faculty are all considered experts in their fields and have assisted the College, tribal organizations and national groups in efforts related to Indian issues.

RESEARCH

Sinte Gleska College also has a duty to respond to the historical and cultural needs of the Lakota and other Indian people through its support of on-going research both of a historical and a current nature.

The College's Board of Directors supported sponsoring a Lakota ethnoastronomy study by resolution in 1984. At that time, several area residents had been collecting oral testimony pertaining to the stars and their movements and constellations as they related to the social and religious lives of the Lakota people. This primary research has become the property of the College and the College has through the last several months lent its support financially and otherwise to the continued gathering and synthesis of such research.

The Sioux people practice an oral tradition. The customs and traditions of the people as well as its history are passed through the generations orally. Stories, legends and other oral literature are used to preserve the culture of the people. Oral tradition is well recognized by historians and other experts as a valid technique for the preservation of a people's history and traditions.

Of special significance is that research conducted to date has more than demonstrated the special sacred relationship which the Sioux people have with the Black Hills. The relationship is founded in the belief that the Black Hills was the place of creation for the Sioux people. It has also been demonstrated that the Sioux people returned regularly to the Black Hills throughout their history for special ceremonial and social events. These special star stories have indicated that the Sioux people had specific journies and duties to perform during the time the stars were in special positions in the skys. Such journies and duties were regularly carried out over hundreds of years according to the research being gathered. As such, the researchers and the College feel confident that the sacred relationship is more than validated and thus the settlement of the Black Hills Claim is more than one of land ownership. It is rather recognition of the religious significance of the Black Hills to the Sioux and other Indian people.

SUMMARY

The Sioux people are looking to the Congress of the United States to recognize and uphold the treaties which it entered into with them. The Congress has both a moral and a legal responsibility to seek an equitable solution.

For generations the Sioux people have looked to the Black Hills as the center of their universe. The Black Hills have symbolized a unifying and significant spiritual and cultural force in the past and the future of the people. Many people have devoted their lives to resolving the economic and legal issues pertaining to the Blac Hills because of this symbolism. Without the Black Hills, the people have no spiritual foundation. Without that spiritual foundation, self-determination is but a dream. Until the Black Hills situation is settled, the people will remain unfocused and unfulfilled. Congress can take measures to insure that the future of the Sioux people will be a properous one. Resolution of the Blacks Hills claim is at the heart of that future.

As an educational institution based on a reservation, Sinte Gleska College, through research, educational and community services, supports the timely and fair resolution of the Black Hills Claim.

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